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Floor Debate
March 03, 2011

[LB22 LB34 LB51 LB62 LB81 LB229 LB256 LB284 LB297 LB372 LB389 LB431 LB543
LB544 LB546 LB548 LB611 LB663 LR80]

PRESIDENT SHEEHY PRESIDING

PRESIDENT SHEEHY: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the thirty-ninth day of the One Hundred Second Legislature, First Session. Our chaplain for today is Pastor Bobby Loud from the Believers Fellowship Church in Omaha, Nebraska, Senator Council's district. Would you all please rise. []

PASTOR LOUD: (Prayer offered.) []

PRESIDENT SHEEHY: Thank you, Pastor Loud. I now call to order the thirty-ninth day of the One Hundred Second Legislature, First Session. Senators, please record your presence. Please record, Mr. Clerk. []

CLERK: I have a quorum present, Mr. President. []

PRESIDENT SHEEHY: Are there corrections for the Journal? []

CLERK: I have no corrections, Mr. President. []

PRESIDENT SHEEHY: Message, reports, or announcements? []

CLERK: Mr. President, your Committee on Enrollment and Review reports LB22 to Select File with E&R amendments attached. Senator Dubas has an amendment to LB62 to be printed. Senator Hadley has selected LB431 as his priority designation for this session, and your Committee on Education chaired by Senator Adams reports LB548 as indefinitely postponed. That's all that I have, Mr. President. (Legislative

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Journal pages 699-701.) [LB22 LB62 LB431 LB548]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LR80. (Doctor of the day and visitors introduced.) We will move to the first item under Select File, 2011 Senator priority bills, LB284. (Legislative Journal page 701.) [LR80 LB284]

CLERK: Senator Larson, I have no amendments to the bill. [LB284]

PRESIDENT SHEEHY: Senator Larson, you're recognized for a motion. [LB284]

SENATOR LARSON: Mr. President, I move LB284...I move that LB284 be advanced to E&R for engrossing. [LB284]

PRESIDENT SHEEHY: Senator Krist, you're recognized to open...or recognized to speak on LB284. [LB284]

SENATOR KRIST: Thank you, Mr. President. Good morning and good morning members of the body. Last week on General File I referenced a case before the United States Supreme Court involving funeral picketing. Yesterday, the court in a 8-1 ruling affirmed the Fourth Circuit Court of Appeals finding that Albert Snyder, the father of the slain Marine, cannot recover from the Westboro Baptist of Topeka, Kansas. The opinion states and I quote, the first amendment shields Westboro from torque liability for its picketing in this case. Unquote. This ruling, however, does not affect LB284 and I want to thank the Speaker's Office and the Revisor's Office and the Attorney General's Office for taking the time to analyze the opinion and offer their thoughts. The court's opinion does not address the constitutionality of the regulations that governments may impose on funeral picketers, and I refer to page ten of the majority opinion offered by Chief Justice John Roberts which states and I quote, even protected speech is not equally permissible in all places and at all times. Westboro's choice of where and when to

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conduct its picketing is not beyond the government's regulatory reach. It is subject to reasonable time, place, and manner of restrictions that are consistent with the standards that have been previously announced by the court. He cited Clark v. Community for creating nonviolence. Unquote. I want to thank the body for its tremendous support of LB284 on General File and I would appreciate that continued support today. Thank you, Mr. President. [LB284]

PRESIDENT SHEEHY: Thank you, Senator Krist. Speaker Flood, you're recognized for an announcement. [LB284]

SPEAKER FLOOD: Good morning, colleagues. I've had several members ask me this morning if we could limit the number of outside conversations. Several members are having trouble hearing those at the microphone. So if we could please limit our conversations, that is appreciated. Thank you, Mr. President. [LB284]

PRESIDENT SHEEHY: Thank you, Speaker Flood. Senator Lautenbaugh. [LB284]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. And I had hoped Senator Krist would take a chance to mention that Supreme Court decision because I think it is sort of affirming what we discussed during General File debate on this bill. I do note that while the court wasn't asked to rule on it, in that particular case the protesters were asked to be 1,000 feet from the funeral, as I read the opinion. And I don't know if there's a challenge anyway to that or not, but all I'm pointing out is in that particular circumstance, 1,000 feet was found to be okay. We're talking about 500 here, so I would (inaudible) your support for this bill. [LB284]

PRESIDENT SHEEHY: Thank you, Senator Lautenbaugh. Seeing no additional requests to speak, you have heard the motion on the advancement of LB284. All those in favor say aye. Opposed nay. LB284 advances. Mr. Clerk, we will now move to first item under General File. [LB284]

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CLERK: Mr. President, LB543. A bill originally offered by Senator Cook relates to Supplemental Nutrition Assistance Program. And the bill has been discussed on both February 28 and yesterday. Senator Cook presented her bill. When the Legislature left the issues pending, was an amendment by Senator Nordquist, specifically AM540. That amendment is still pending, Mr. President. (Legislative Journal page 670.) [LB543]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Cook, would you like to give us a summary of LB543. [LB543]

SENATOR COOK: Why yes, thank you, Mr. President and good morning, colleagues. LB543 requires the Department of Health and Human Services to create a plan for Nebraska to better share information about the Supplemental Nutrition Assistance Program, also known as SNAP. Additionally, LB543 enables Nebraska to leverage existing funding with contributions from nonprofit agencies for the purpose of conducting outreach and application assistance activities for supplemental nutrition assistance. Can I get a gavel, please? [LB543]

PRESIDENT SHEEHY: (Gavel) [LB543]

SENATOR COOK: Thank you. All right. Private donors are ready, willing, and able to fight hunger hand in hand with the state. They wait anxiously for the advancement of this legislation so that they can fulfill their critical mission. I appreciate your sincere consideration of the merits of LB543. Thank you, Mr. President. [LB543]

PRESIDENT SHEEHY: Thank you, Senator Cook. Senator Nordquist, would you like to give us a summary on AM540. [LB543]

SENATOR NORDQUIST: Thank you, Mr. President and members. I introduced AM540 because I believe it's good policy on two fronts. It streamlines the administration of the

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program. It removes the difficult and sometimes very burdensome calculation on the department. This will streamline the system. Secondly, on the second front, is this good public policy to encourage our low income Nebraskans to save? We know that's good policy. We know that's how they work their way out of poverty is to put money away to build assets. Our current policy, which 36 other states have now rejected, a growing number all the time, and this was done through USDA under Bush administration...I'm trying to confirm if Senator Johanns was there at the time. I think he was at the end of the Bush administration, but this policy...our current policy creates an incentive for people to spend down their assets. That's bad policy when they're trying to work their way out of poverty. Yesterday, I went home and reflected on the tenor of the debate that we had on this floor and, quite frankly, I was disgusted and ashamed. I was disgusted and ashamed by the way we characterized our fellow Nebraskans as people who will go out of their way to defraud the system. We talked about people with lots of assets that they have nothing better to do than to go out and try to defraud the system. I believe in Nebraskans. I believe they're better people than that. We have neighbors who are hurting, they've lost jobs. Many of them are on the edge of foreclosure, if they haven't already. I don't know a lot of people that have three Mercedes or three lake houses who are going out of their way to defraud the system. I do know a lot of people in my district who have lost their job and need a little helping hand during these tough times. And I know listening to Senator Harms eloquently speak in the Appropriations Committee, there are similar problems in rural Nebraska. This bill is an attempt that doesn't cost us General Fund money, 36 other states are taking advantage of this giving their low income citizens who are struggling, a chance, a chance to, a little temporary stopgap to get by. I don't think there are a lot of people with a lot of assets sitting around that are going to go sit down for hours fill out a 30-some page application listing all their assets and wait 30 days, 30 days, to get it approved so they can have a dollar a meal a day. That's what we're talking about here. This is good policy because it simplifies the program, and it helps people trying to work their way out of poverty build assets. And I hope today we can talk about Nebraskans in the light that they should be talked about as good, decent, hardworking people. Thank you, Mr. President. [LB543]

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PRESIDENT SHEEHY: Thank you, Senator Nordquist. You've heard the summation of LB543 and AM540. Members requesting to speak, Senator Nordquist followed by Senator Mello, Senator Council, Senator McGill, Senator Campbell, and others. Senator Nordquist. [LB543]

SENATOR NORDQUIST: Thank you, Mr. President. I just want to reiterate, you know, this program, we have the highest ranked program in the country. And I know Senator Campbell, I can maybe yield her some time. She knows a lot about this. Our system has essentially...when you round, it's a 0 percent missed calculation rate. We have a very well run system. But talking to frontline workers who have talked to me and to the Fiscal Office, a lot...those errors, the few errors that do exist, we're talking tens out of tens of thousands of applications. We're talking a very small number. Those errors that do exist come from the asset test because it is extremely burdensome. If you get a chance...I don't want to make copies, I don't want to waste paper, but come look at the assets that have to be listed on this 30-some odd page application. We have people sitting over in HHS, while we're cutting their budgets, spending time having to go through and verify all these assets. It's time consuming and it puts us at a disadvantage to other states. I spoke yesterday about someone who contacted my office, actually a constituent of Senator McGill's, we had two more yesterday, but this lady, her husband left her with a 17-year-old son who had put away about \$5,000 in savings, in a savings account for college. The limit is \$2,000. Their family had to spend down those assets of that kid putting him at a disadvantage. If we don't advance this policy, we're telling that kid, you know what, you have to spend down your college savings, but kids in 36 other states don't. That puts him at a disadvantage in this competitive economic country we have. So I'd appreciate your support of this. And I know she has a light on, but Senator Campbell if you'd like to talk about the administration of this program, and how well it's run. We've received bonus payments because of our success, the great administration that we have of this program in HHS. I'd yield the rest of my time to Senator Campbell. [LB543]

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PRESIDENT SHEEHY: Thank you, Senator Nordquist. Senator Campbell, 2 minutes 50 seconds. [LB543]

SENATOR CAMPBELL: Thank you, Mr. President and good morning, colleagues. I think it's very important to understand some statistics that come from the department and Senator Nordquist has already alluded to this. But according to the USDA, in 2008 Nebraska out of 52,000 households receiving SNAP benefits, only 85 households were deemed fraudulent. That's a great record. And it's important to know that if you apply for the SNAP program and it's found that you are trying to defraud the state of Nebraska, you can be criminally prosecuted for that. This program is meant to be used by the people who need it, and apparently the people in Nebraska are responding to that. There are multiple catch points that the department uses in accurately determining the eligibility. So once you get through that application, you sit down with the worker who interviews you and all of the information that you have put on the form to provide documentation of citizenship, residency, and whether or not the household members meet work requirements. And once eligible, there are random audits of households to identify any fraud. Nebraska has one of the top, if not ranked number one programs in the nation for an error rate on SNAP benefit. And in fact, last year received a bonus... [LB543]

PRESIDENT SHEEHY: One minute. [LB543]

SENATOR CAMPBELL: ...of \$850,000 for the quality of the performance that our department undertakes in the SNAP program. This is a well-run, well-identified program across the nation. Folks, this is not just people who want to take advantage of the state and cheat us out of the money. These are people who really need our help. Thank you, Mr. President. [LB543]

PRESIDENT SHEEHY: Thank you, Senator Nordquist. Thank you, Senator Campbell.

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Senator Mello. [LB543]

SENATOR MELLO: Thank you, Mr. President and members of the Legislature. I, myself, also took a step back after the debate the last few days dealing with LB22, a very serious topic regarding life, regarding, in my perspective, trying to protect the consistent ethic of life. And as we debated that issue, a good number of us on the floor, in private and public conversations, talked about the need to protect life, to cherish life. AM540 takes that a step further, that we want to protect life for those children who need food, who need assistance because right now their families are going through difficult times. I don't want to repeat some of the facts and figures that Senator Nordquist and Senator Campbell eloquently laid out, but everyone on their desk should have received a copy of an e-mail sent out last summer from the Platte Institute, obviously a bastion of liberalism in this state that describes the economic benefits of the SNAP program and how that economic benefits trickles down to local communities and local businesses. But a bigger issue, some of the conversations on the floor yesterday and statements made regarding asset limits, income eligibility regarding the SNAP program, let's take a step back to qualify for the SNAP program. Even if we adopt AM540, we're talking about a family of three, a single parent and two children, whose monthly income is barely \$2,000. So if you own three lake homes, if you have three Mercedes Benz, you have a family income maximum of \$2,007 to qualify for SNAP, even if we adopt AM540. That \$2,007 has to pay for your Mercedes Benz, those three Mercedes Benz car insurance, their titling, as well as any other life style cost that come with your day-to-day life. Your health insurance, your property taxes, your day-in, day-out living expenses. You have three lake homes, one parent, two children, \$2,007 a month. That \$2,007 a month is paying for your three lake homes property taxes, your home owners insurance, a host of other things that come with it. My friends, these examples that were thrown out yesterday in debating AM540 are just unrealistic and they're just not factual, they're just not actual. What the reality is this, is that we have asset limits right now. But even if we adopt AM540, which is good fiscal policy for the state because it encourages low-income families to save money to get themselves out of poverty and not spend

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down their money to remain in poverty for a lifetime. There are work requirements. No one discussed that yesterday on the floor. Not only does that single parent who makes \$2,000 a month to take care of her or him and their two children, they obviously have to work 30 hours a week minimum to qualify for SNAP under AM540. This is not an open door policy to public benefits regarding food stamps. Anyone who would say is otherwise, hasn't read the bill or doesn't know enough about the program and is purely making information up to fit an argument. Senator Nordquist mentioned the facts about the costs of the SNAP program in regards to what those benefits are to working families in this state, \$1.12 a meal, \$3.27 a day for a person to be on SNAP. You find me a millionaire who owns three lake homes, who has three Mercedes Benz, who is going to live roughly on \$23.59 a week for all of their food. [LB543]

PRESIDENT SHEEHY: One minute. [LB543]

SENATOR MELLO: You find me someone who is going to go through that trouble and that pain to defraud a system. The bigger challenge is this: \$23.59 to those of us in this body. Granted we make \$12,000 a year, but all of us have some kind of employment or some kind of income outside of this body. I challenge all 49 of us to take a challenge right now, right today, and live on \$23.59 a person to feed yourself. Have your staff do it, have you do it. Take a challenge and actually see what working people in Nebraska go through. Because the fact is that we can't be that disconnected from the day-to-day lives of the people we represent by throwing them under the bus to make cheap political arguments about public assistance programs. Thank you, Mr. President. [LB543]

PRESIDENT SHEEHY: Thank you, Senator Mello. Senator Council. [LB543]

SENATOR COUNCIL: Thank you, Mr. President. Unlike my colleagues who have spoken before me who stewed on this issue last night, I was stewing when we adjourned. My light was on. I was upset that we adjourned before I had an opportunity to address this issue. Because I was, quite frankly, offended and appalled by the

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suggestions implicit in two of the opposing comments on the amendment because it was a clear attack on poor people, and the perception of poor people, and the perception of people who have to depend upon public assistance programs in order to take care of their families. But then I stepped back a little bit and I said, well, it also is indicative of a little bit of a lack of knowledge about what these public assistance programs are and who they are designed to help. You know, this is not a program that is based upon people who aren't trying to take care of themselves and their families. This is a program that is designed to assist the working poor, the working poor. In order to be eligible, most adults on the SNAP program have to be working at least 30 hours per week. These are not people who are just sitting on their butts not trying to better themselves. These are Nebraskans who have fallen upon bad times. And I listened particularly to Senator Heidemann yesterday, and at one time he was saying that, for the most part, Nebraskans believe as much as we can that we should take care of ourselves. And I don't think anybody disputes that. But almost in the same breath his concern with this amendment was that an asset wealthy Nebraskan with three houses would try to game the system to be eligible for SNAP, if this amendment passes. I just don't understand at how in the same time you can believe that Nebraskans want to take care of themselves, but then most Nebraskans will try to defraud the government to access food stamps, which has been previously mentioned equate to about \$3.36 per day per person. Let's talk about the example with the Nebraskan that has three houses. What's so unreal about that is, first of all, that Nebraskan would have to be making under 130 percent of the federal poverty level. Again they would have to be working 30 hours a week. I don't know many people who can own three houses and work 30 hours per week and make under \$30,000 a year, because that's what the circumstance that would have to be for that hypothetical to exist. So let's assume that there is this hypothetical Nebraska family of four who has three houses, makes \$29,055 annually. I don't know how you make a payment on the three houses unless apparently they inherited them or paid for them when times were good, when times were good. Economic times are not good. I would suggest to you that this hypothetical family, if they did own these three homes, would have difficulty paying the property taxes on three

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homes... [LB543]

PRESIDENT SHEEHY: One minute. [LB543]

SENATOR COUNCIL: ...raising a family of four on \$29,000 a year. The long and short of it is, that family doesn't exist. We don't have Nebraskans working families who are going to try to game this system. And finally in response to Senator Heidemann, if my federal tax dollars are going to be used to supplement someone's ability to obtain fresh food and vegetables, I want my federal tax dollars to go to help Nebraskans, not people in the 36 other states. Because the last I checked, when I pay my federal income taxes, I can't carve out and say, don't use my federal income taxes to assist citizens across the United States. If my taxes are going to go towards providing SNAP benefits, then Nebraskans better well be able to take full advantage of my tax dollars. [LB543]

PRESIDENT SHEEHY: Time, Senator. [LB543]

SENATOR COUNCIL: And for that reason, I support AM540. [LB543]

PRESIDENT SHEEHY: Thank you, Senator Council. Senator McGill. [LB543]

SENATOR MCGILL: Mr. President and members of the body. Encouraging personal savings is something that's very important to me. I know during my time here in the Legislature some people are familiar, I've spent a lot of time talking about how I want to make sure people don't get caught in a cycle of debt, whether it be with payday lenders or other means. And the bill I will likely prioritize this year encourages people to save money because historically Americans are not saving nearly like they used to. Since the recession, people are starting to save a little bit more again and I think that's an excellent thing. And I hope the bill that I have coming later this session will encourage that further. But right now, most Nebraskans don't have enough money to get by for three to six months, enough money saved to get by for three to six months if they did

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lose their job. If they are wise enough to have money put away, then we should be encouraging them to keep that money and not needlessly spend it down to qualify for something like food stamps or to qualify for SNAP when they do really have that month to month need while they're out there trying to find new work. And so they can keep that money in savings to pay their rent or whatever other needs may come up during that month, tie them over a few months. I think it's incredibly important to be encouraging savings as opposed to the opposite, which is what happens now. I'd also like to talk about how we're asking HHS to do even more with less. Currently, there is a very in-depth screening process for eligibility for SNAP benefits. The DHHS rules and regulations are so complicated. In fact, those covering eligibility determination alone are 66 pages long. For households to be eligible for the program, DHHS staff has to evaluate a household's eligibility based on income, assets, deductions, citizenship, residency, employment requirements, and special rules for elderly and disabled. This amendment simply streamlines the administration of the program, reduces the amount of time DHHS workers must devote to verifying resources, and thus reducing potential for error. This administrative simplification in AM540 is particularly important at a time when we are implementing ACCESSNebraska and simultaneously proposing cuts to HHS FTEs. In fact, the preliminary budget this year actually cuts their administration by \$3.1 million. So again we're asking them to try to maintain all these eligibility requirements with even less staff, which is why an amendment like this is so important. The department has indicated that they expected the implementation of ACCESSNebraska to decrease the need for hundreds of full-time employees. HHS has closed local offices and are limiting office hours in some locations, all at the time when we are seeing an increase in caseloads, in general, due to the economic downturn. We are asking the department to do more with less, and AM540 is an effort to provide them with the tools they need to do their job and maintain the high level of quality with which they are currently administering the program. Thank you, Mr. President. [LB543]

PRESIDENT SHEEHY: Thank you, Senator McGill. Senator Campbell. [LB543]

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SENATOR CAMPBELL: Thank you, Mr. President. I wanted to be able to complete some of my comments to you, the body, this morning on the program itself. And that...I was asked off the mike whether Senator Nordquist's amendment had been an original bill before the committee. And, yes, it was, was LB663. And it came out of committee with one no vote, and Senator Bloomfield has been very honest about that in his comments and we appreciated those, but it did come out of committee. When we started looking at Senator Cook's bill, LB543, we thought there might be a similarity here and to bring the two together for you to discuss on the floor. I want to go back to the application that a SNAP member may make and quote from that application. Any member of a household who breaks any of these rules on purpose may be barred from SNAP for 12 months for the first violation, 24 months for the second, and permanently, permanently on the third violation. Additionally, individuals may be fined up to \$250,000 and imprisoned for up to 20 years, and subject to prosecution under other federal laws. These federal laws that govern SNAP are very strict and very specific. I also draw your attention to an article that has been distributed to all of us today from the Platte Institute. And particularly, I would like you to look at the second paragraph. And in that paragraph it talks about the fact that there has been a 16 percent increase in the number of SNAP applications in Nebraska. We have neighbors, we have community folks that we all reside with every day who have in the past couple of years, due to the recession, now turn and need our help. Please look at this program for what it is, a very strict federal program that helps Nebraskans when they need it. Thank you, Mr. President. [LB543]

PRESIDENT SHEEHY: Thank you, Senator Campbell. Additional members requesting to speak on AM540 to LB543, we have Senator Cook, followed by Senator Ken Haar, Senator Conrad, Senator Schumacher, Senator Sullivan, Senator Howard, and others. Senator Cook. [LB543]

SENATOR COOK: Thank you, Mr. President. Good morning again, colleagues. I would like to ask, if he's in the Chamber, or even if he's not in the Chamber, Senator Heidemann would yield to a question. Senator Heidemann. [LB543]

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PRESIDENT SHEEHY: Senator Heidemann, would you yield to Senator Cook? [LB543]

SENATOR HEIDEMANN: Yes. [LB543]

SENATOR COOK: Thank you. I have a question kind of building on something that we began talking about yesterday related to our asset testing and what I will describe as asset testing for the Nebraska Advantage Act. Are you familiar with the length of the application for a corporation to participate? Can you tell me how many pages that application is? [LB543]

SENATOR HEIDEMANN: I do not know that. [LB543]

SENATOR COOK: Okay. Also, do you know whether or not the corporations need to list assets, whether they are real assets such as jets, cars, stocks, bonds, buildings, real estate? Do you have any idea if they're required to list that as part of their application for...to participate in the Nebraska Advantage Act? [LB543]

SENATOR HEIDEMANN: I think Senator Cornett could answer that question a little bit better than myself. [LB543]

SENATOR COOK: Okay. And I don't see her here. Perhaps...thank you very much, Senator Heidemann. Is Senator Utter, would he hear and yield to a question. [LB543]

PRESIDENT SHEEHY: Senator Utter, would you yield to Senator Cook? [LB543]

SENATOR UTTER: Yes, I will. [LB543]

SENATOR COOK: Oh, there she is. All right, well now...good morning, Senator Utter. [LB543]

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SENATOR UTTER: Good morning, Senator Cook. [LB543]

SENATOR COOK: I'm going to ask Senator Cornett my questions now because she's here. Thank you. [LB543]

PRESIDENT SHEEHY: Senator Cornett, would you yield to Senator Cook? [LB543]

SENATOR CORNETT: I guess I will, yes. (Laugh) [LB543]

SENATOR COOK: All right, good. Good morning. Would you happen to know how long the application is in terms of the number of pages for a corporation to complete an application to participate in the Nebraska Advantage Act, the tax credits for that? [LB543]

SENATOR CORNETT: How many pages? [LB543]

SENATOR COOK: Correct. [LB543]

SENATOR CORNETT: No, I do not. [LB543]

SENATOR COOK: Okay. Would you happen to know whether or not the application includes a listing of that corporation's assets in terms of real estate or real property or personal property as it's defined for corporation? [LB543]

SENATOR CORNETT: I have not ever actually read through one of the application processes, but I imagine it does have those requirements in it. [LB543]

SENATOR COOK: Okay. Well, thank you very much, Senator Cornett. The point I'm trying to make, which is one I brought up yesterday, is that we've discussed how this

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nutrition program, which is to feed people who really don't have any other way to feed themselves and their families, they go through quite an ordeal just in completing the application, it's more than 30 pages, in order to be eligible to receive a little more than one dollar per day per person in the household. And while it is absolutely possible for someone to do that, say a really good cook who is aware of nutrition to provide a balanced meal, in modern society if somebody is working 30 hours per week and taking care of children and taking care of a household, that is going to be a stretch. The point I'm trying to make, and I'm certain you have kind of caught on, is I'm trying to understand another one of what I will describe as our legislative hypocrisies. And that is we put pressure on the individual who, in my mind, really would rather be doing just about anything else other than humbling themselves to show up to get food for their family. My guess is they've been through every other resource they had, and now they've come to us... [LB543]

PRESIDENT SHEEHY: One minute. [LB543]

SENATOR COOK: ...and we're going to question their integrity and their motives, and think that they've got all kinds of time in their day to cheat the system. We're going to accuse them of that and then, from what I understand, as familiar as I am with the tax advantage credits, we offer millions and millions of real dollars, or dollars that do not have to be paid into the state, and I don't know that we ask a proportionate number of questions of the people completing that paperwork for our money, not federal money that we're leveraging, our tax dollars. Thank you, Mr. President. [LB543]

PRESIDENT SHEEHY: Thank you, Senator Cook. Senator Ken Haar. [LB543]

SENATOR HAAR: Mr. President and members of the body. First of all, I'd like to thank Senator Mello for the Platte chat. My subscription ran out, so. (Laughter) I feel very passionately about what got said yesterday, and I'm going to repeat one of my favorite quotes from one of my political heroes. It was once said that the moral test of

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government is how that government treats those who are in the dawn of life, the children, those who are in the twilight of life, the elderly, and those who are in the shadows of life, the sick, the needy, and the handicapped. And it wasn't too long ago that I walked door to door to run for this office, and I want to tell you, there's some real poverty cases in my district. And these aren't lazy people, these aren't cheaters. I cannot understand and I'm really upset that we characterize people that need food stamps as people who are trying to game the system. I want to talk about some of the other...it's welfare. We're talking about welfare here. And I remember well in the 1990s when we talked a lot about welfare nationally and there was some big changes in the Clinton administration, really some important changes around welfare. But I think we still think of welfare in terms of people who are lazy, they're just trying to game the system. My God, they get food stamps, why can't they just go to the soup kitchen every day. Well, I had a constituent who couldn't go to the soup kitchen in Lincoln because they can't afford gas for their car anymore. And they're too far to walk. It's miles and miles from their home to the Matt Talbot Kitchen. So...and I'm going to talk next time on the mike about what we require these people just to get food stamps is simply amazing. Then I want to talk about subsidy. It's another form of welfare that we offer. I get a subsidy. I live on an acreage and I have CRP acres. That's...I don't even know what CRP stands for, but it simply means that I have a portion of my land, about ten acres, I believe it is, that I allow it to go in prairie. It's for wildlife and so on. That's a subsidy I get from the federal government every year. I think I filled out a two-page application for that subsidy that I get regularly and nobody has been out to walk my property, although we used GPS to get the number of acres. And I'll bet you anything that there's some people cheating on CRP. Because one of the requirements of CRP, unless you get special permission, you can't graze it because that's making income off of that, it's income. Well, there are some people who are grazing CRP, but we're not going to end the CRP program just because some people are gaming that system. And then let's talk about incentives. We give all kinds of incentives, especially in terms of sales tax exemptions. They are all over the place. It's all welfare. It's the same meaning. It's giving to people to make something happen. In the case of welfare, and especially with food stamps what

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we're trying to do is to give people a chance... [LB543]

PRESIDENT SHEEHY: One minute. [LB543]

SENATOR HAAR: ...thank you. Give people a chance to feed themselves, to feed their children, and to stay above water. I'm sure there's some people gaming the system. I'm sure there are people gaming our subsidies, are people who aren't paying the use tax that they're supposed to for, you know, hundreds of Nebraskans who aren't paying the use tax that they're supposed to for on-line purchases. But we don't stop that sort of thing from happening, but yet we're concerned because these food stamp people are going to game the system. I'm ashamed of us. Thank you. [LB543]

PRESIDENT SHEEHY: Thank you, Senator Haar. Senator Conrad. [LB543]

SENATOR CONRAD: Thank you, Mr. President. Good morning, colleagues. I think we're having a very important and informative debate this morning on how we can, hopefully, find some common ground to assist families as they transition through hard times, particularly under these very difficult and uncertain economic conditions. I think it's important to keep our dialogue based on facts, not hypotheticals as we started down the path yesterday. And I think it's important to remember, whose on food stamps in Nebraska? From the most recent statistics I had readily available, characteristics of a food stamp household by the office of Analysis, Nutrition and Evaluation found that 56.8 percent of Nebraska food stamp recipients are children, almost 60 percent are children, 14.2 percent were elderly individuals. So that's a vast majority of the folks that are on food stamps. Let's just make sure that we're very clear about that. And I think it's well established that, of course, children and the elderly are among the most vulnerable population. I'm going to ask you for a minute to think about food insecurity and hunger and poverty advocates have well-established definitions on these facts. And food insecurity means folks who don't know where their next meal is going to come from. How many of you have ever been to Memorial Stadium to see a football game? Show of

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hands. Think most of the people in this body have. Most of the people beyond...thank you, Senator Janssen. And I think we're all well aware of that's one of the most well-known center points of Nebraska's vibrant culture. And I'm lucky because it's in my district so I'm particularly partial, but we know that it's over 76,000 screaming fans on every game day at home and such a source of state pride for us. Did you know that one in six Nebraska kids are food insecure? That's 74,822 kids every day. Enough kids to fill Memorial Stadium every day who do not know where their next meal is coming from. I was wondering if Senator Hadley would yield to a question. [LB543]

PRESIDENT SHEEHY: Senator Hadley, would you yield? [LB543]

SENATOR HADLEY: I most certainly would. [LB543]

SENATOR CONRAD: Senator Hadley, you spoke yesterday in opposition to this amendment and I'm just wondering, what's your plan to address the number of kids who are food insecure in Nebraska every day? [LB543]

SENATOR HADLEY: I'm not sure, speaking in opposition. I asked...my main question was whether there were other...there were three or four alternatives that I had read about that might potentially be looked at when using the asset test in working on it. For example, expanding the dollar amount, exempting certain annuities and retirement benefits, and such as that. So I think I was asking Senator Nordquist if other areas had been examined when looking at this from an asset test. [LB543]

SENATOR CONRAD: And do you know if any of those other options have a fiscal impact to the state? [LB543]

SENATOR HADLEY: I do not. [LB543]

SENATOR CONRAD: Okay. Well, I imagine that it would be difficult to know at this point

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in time that...but that they probably do. And it's important to note that this amendment does indeed not. I want to talk a little bit as well...and I challenge all of you who get up and talk in opposition to this amendment to lay out your plan, to lay out your plan to address the 75,000 kids in Nebraska every day that are food insecure because we're waiting to hear it. And if there's better ideas out there, let's talk about them. Let's get them on the table. Debate is important because it helps to draw out new ideas into the policy arena and it helps to identify common ground. So that is an... [LB543]

PRESIDENT SHEENY: One minute. [LB543]

SENATOR CONRAD: ...exciting debate that I'm looking forward to. I also want to talk about how we have to take this policy in context of other issues. Colleagues, we are looking at ways to solve a budget crisis and when you look at the Governor's recommendations, when you look at the Appropriation Committee's preliminary recommendations, there are many, many, many cuts towards vulnerable populations. There's cuts in a lot of areas. But make no mistake, we are utilizing the services that vulnerable Nebraskans rely upon to have a basic quality of life to balance our budget. This...this AM540 and LB543 is one, one clear shining light for how we can move forward to help vulnerable populations with no fiscal impact, that brings additional economic benefits to Nebraska farmers, Nebraska grocers, and Nebraska families. This is good public policy. It should be advanced and I applaud Senator Nordquist... [LB543]

PRESIDENT SHEEHY: Time, Senator. [LB543]

SENATOR CONRAD: ...for bringing this forward. Thank you, Mr. President. [LB543]

PRESIDENT SHEEHY: Thank you, Senator Conrad. Senator Schumacher. [LB543]

SENATOR SCHUMACHER: Thank you, Mr. President. Would Senator Nordquist yield to a question. [LB543]

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PRESIDENT SHEEHY: Senator Nordquist, would you yield to Senator Schumacher?
[LB543]

SENATOR NORDQUIST: Yes. [LB543]

SENATOR SCHUMACHER: Senator Nordquist, as I understand it, what this is basically doing is eliminating the asset requirement when you apply for food stamps. And in simple terms, it doesn't matter how much property you own, it's the income that you make on it that we will look at. [LB543]

SENATOR NORDQUIST: That is essentially...yeah, the amendment. [LB543]

SENATOR SCHUMACHER: Okay. And how is your income determined for purposes of this? [LB543]

SENATOR NORDQUIST: I didn't grab that sheet. It's...I mean, it includes capital gains. It includes child support. It includes farm subsidies. It includes, obviously, wages. I mean, it's a long list of things that go into determining your income. So example of a billionaire or millionaire Warren Buffet, you know, I would sure hope that as a single adult, that on his assets he's able to earn more than \$14,000 a year of investment income on... [LB543]

SENATOR SCHUMACHER: Okay. Then let's say that I'm a small businessman or a farmer and I make a moderate amount of money. At the end of the year in December, I see that I'm ahead of the game \$150,000 in income. And I really would prefer not to pay any taxes, so I go out and I buy a \$150,00 combine. And under the rules of the IRS, I can deduct that combine. My income tax now shows zero income, I'm broke as far as income testing, but I've got a lot of land and I've got a new combine too. Under this amendment, would I be able to get food stamps? [LB543]

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SENATOR NORDQUIST: Under current law, you would be able to get food stamps. You could do that under current law because your farm ground, your equipment, anything you own for your business is already all exempt. That's...I have a list of...three pages of 29 exemptions to the asset list that our workers have to go through and it includes what you just said. So right now, you could do that. [LB543]

SENATOR SCHUMACHER: Well, it almost, as we begin or engage in this discussion as Senator Conrad said that we should, it almost seems that that's some of the frustration with the system. That those arguing on either side of this issue are not arguing against poor people who may need a handout for three, four months while they're between jobs. And fortunately, we don't have that big of unemployment problem here, or somebody that's in a pinch for a while. But it does seem to me that what frustrates people is that there's a general feeling in the population that people who are getting welfare, in many cases, are living better than the people who are paying taxes. And again as we engage in this discussion, I think we need to bring into context the true needs, short-term helping people without creating dependency in an environment of dependency where this is a way you live life in the new world, or it doesn't matter if it costs money to the government as long as it's federal money because they can print it over at the federal reserve or borrow it from the Chinese, or if we can pass it down to the cities because as long as it's off the state's books, it's not on the fiscal note, and let the cities worry about that themselves. We need some mechanism, and maybe this discussion is the best that we can do to get it, to bring together the legitimate needs and come up with a synthesized proposition that addresses the problems that we have with the system and in the end, treat all Nebraskans fairly, does not overburden other branches of government, and addresses the true social concerns. So I'll be listening to this debate very... [LB543]

PRESIDENT SHEEHY: One minute. [LB543]

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SENATOR SCHUMACHER: ...closely as it emerges. But it seems to me there is something wrong with that person I described initially, who just bought a new \$150,000 combine, somehow being eligible for food stamps. Thank you. [LB543]

PRESIDENT SHEEHY: Thank you, Senator Schumacher. Senator Sullivan. [LB543]

SENATOR SULLIVAN: Thank you, Mr. President. I wonder is Senator Nordquist would continue a dialogue. [LB543]

PRESIDENT SHEEHY: Senator Nordquist, would you yield to Senator Sullivan? [LB543]

SENATOR NORDQUIST: Yes. [LB543]

SENATOR SULLIVAN: Thank you, Senator. Need to shed a little more light for me on some of the areas. What's the participation rate in this SNAP program among Nebraskans, currently? [LB543]

SENATOR NORDQUIST: Of those that are... [LB543]

SENATOR SULLIVAN: Of those eligible. [LB543]

SENATOR NORDQUIST: Of those eligible, it's...I think it's around two-thirds is what I've heard and seen written. [LB543]

SENATOR SULLIVAN: Do you know how this plays out across the state? Is that participation rate on those eligible of, broken down according to county? [LB543]

SENATOR NORDQUIST: I tried to track down that information yesterday and wasn't able to. I don't have it by county right now, but we're working on trying to get that

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information. [LB543]

SENATOR SULLIVAN: Okay. And of those that are eligible and not participating, do you have any sense on why they aren't? [LB543]

SENATOR NORDQUIST: Well, from what I've heard, you know, there's probably a couple of reasons. I certainly think that they know the asset test. They know that they're going to have to go in and spend down their resources, and they're trying to do the best that they can and maintain those resources so when they come out of this, they have those resources available to them. Much like all of us are trying to do, to build, you know, a savings account and some assets that if we fall on the tough times we have those. But also I think in talking to...and I grew up in a small rural community in South Dakota, certainly hearing neighbors, friends, and even my folks at times talk about people that received these benefits in a way that isn't, you know, isn't the most flattering. And I think there's a stigma attached to it. [LB543]

SENATOR SULLIVAN: Why do you think the SNAP program, though, by and large, has been successful, received national recognition and, by and large, has been shown to have very little fraud connected to it? [LB543]

SENATOR NORDQUIST: I think partly it's...you know, I think it's partly Nebraskans. Those that apply for it are really in need. We're not the type of people to go out and take advantage of the system. I think we work hard. We play by the rules, but when we fall on tough times, you know, at that point we'll look for a little help. You know, we're a strong state of communities and we help each other out when we fall on tough times. And I think when we fall on tough times, sometimes we need a little hand as well and I think the people that are applying are those people, people that only use it in the situations that the initial program was intended to be. [LB543]

SENATOR SULLIVAN: Thank you, Senator Nordquist. It's very hard to build a perfect

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system and a perfect program to help some of our most vulnerable citizens. And Senator Schumacher, your point is well taken that maybe this isn't a perfect situation. However, we also have to realize that in designing these programs we can't actually have them be a disincentive for people to actually help themselves. And as Senator Council mentioned, that this is a program designed really to help the working poor. And as far as our concern for people gaming the system or defrauding it, I think this particular case is, if we have concerns about that, it's a misguided notion. Thank you. [LB543]

PRESIDENT SHEEHY: Thank you, Senator Sullivan. Members requesting to speak on AM540 to LB543, we have Senator Howard, followed by Senator Bloomfield, Senator Nordquist, Senator Fulton, Senator Dubas, Senator Wallman, and others. Senator Howard. [LB543]

SENATOR HOWARD: Thank you, Mr. President and members of the body. It won't come as any surprise to this body that I stand in support of the Nordquist amendment, and certainly in support of the bill. After all the years that I worked for Health and Human Services, and I'm not going to reminisce again about that because you've heard it many times before, I dealt with families on food stamps. And I was thinking back to the families that had come in. I didn't work in the department that did issue food stamps. I worked with families who had their children in foster care and families who were adopting. But I think back on people that had talked to me about the food stamp program and found themselves in a situation they hadn't expected to be in. And I think of an example of a family that was doing fine. They had a nice car. Well, they had a nice house and they had a couple of nice cars, but the family fell apart. The dad got involved, for want of a better way of staying it, got involved and left the family. It was a mom and the kids, and the assets of the family became tied up in the court with the divorce and the mom really had nothing. She hadn't worked. She was at home with the kids. We like to think that's where moms should be, but she really had nothing. And she didn't want to ask for anything. She didn't want to ask for help. She had never had to and those

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programs were designed, in her mind, for people that nothing. The other people, those desperate people that relied on that. She never had to do that. So don't think this can't happen to you or your family or in your life. I mean, none of us are that far removed from needing to ask for help from the system. Is it a perfect system? It's not a perfect system. I don't know if I've ever...other than my bills, I don't know that I've even ever seen any perfect bills come through here. [LB543]

PRESIDENT SHEEHY: (Gavel) [LB543]

SENATOR HOWARD: Thank you. But it is a system that's designed to help people. And that's when you wash it all out, that's who we are. We're here for people. We're not here from computer systems. We're not here because we're interested in the financial, per se. We're here really to do the right thing for the people that trust us. I have a bill right now in the Health Committee to address a food stamp issue because I have a problem with people who are receiving food stamps being able to buy soda on that. And the bill itself asks for a waiver, asks the department to ask for a waiver so the people in Nebraska would not be able to buy soda. I don't think that's nutritional. You can imagine the beverage distributors came and opposed, as did the grocers, who put up a big fight that this would cause them no end to problems and people would be leaving the state with their food stamps to purchase in South Dakota or Kansas. But make no mistake about it. No one, no one is so far removed from the troubles of life that they can sit on their perch and say, this is a bill for other people that can't manage. This is a bill for people that didn't take advantage of their opportunities. This is a bill for people that, you know, those people. We don't know what to say about them, but they should have done better. No, this is a bill for everyone. And I appreciate Senator Cook bringing us this bill and I will offer her the remainder of my time. [LB543]

PRESIDENT SHEEHY: Senator Cook, you're yielded 1 minute 15 seconds. [LB543]

SENATOR COOK: Thank you, Mr. President and thank you, Senator Howard. I think

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Senator Howard did remind us of how we...why we even participate in this program. Nebraska is not known for signing up for everything that the federal government might offer its citizens for better or for worse. But Nebraska has participated in the SNAP program, previously known as food stamps. And just as Senator Howard mentioned, it could be anybody in this room or anyone that we know or anyone of our constituents that's going along fine and then some factor in their life changes. And what we are asking them right now in policy is to liquidate anything that might help them restart their life faster, and at even a comparable level, and we're asking them to start at zero with a \$1.12 per meal per day per person in the household. So thank you very much. I would encourage you... [LB543]

PRESIDENT SHEEHY: Time, Senator. [LB543]

SENATOR COOK: ...support AM540 and LB543. [LB543]

PRESIDENT SHEEHY: Thank you, Senator Cook. Senator Bloomfield. [LB543]

SENATOR BLOOMFIELD: Thank you, Mr. President and members of the body. I, again, stand in support of Senator Cook's original bill LB543, but I do strongly oppose AM540 from Senator Nordquist. And I wonder if Senator Nordquist would yield to a brief question. [LB543]

PRESIDENT SHEEHY: Senator Nordquist, would you yield to Senator Bloomfield? [LB543]

SENATOR NORDQUIST: I'd be happy to. [LB543]

SENATOR BLOOMFIELD: Thank you, Senator. You mentioned a young man that had managed to set aside \$5,000 potentially for college and have to spend that down to \$2,000. Is that correct, is that my understanding? [LB543]

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SENATOR NORDQUIST: Yeah, it was a 17-year-old, yep. [LB543]

SENATOR BLOOMFIELD: Okay. Thank you. Had he or his family managed to set aside \$100,000, should he have had to spend any of that? [LB543]

SENATOR NORDQUIST: Should they have to? [LB543]

SENATOR BLOOMFIELD: Yes. [LB543]

SENATOR NORDQUIST: Well, they would put him in a...if he saved \$100,000 for college and was saving that, and I don't know where he's intending to go to college, but it would put him at a competitive disadvantage to a kid in some other state, 36 other states, that had put that \$100,000 away and they wouldn't have to touch their asset. [LB543]

SENATOR BLOOMFIELD: So let me understand, if he'd had \$100,00 there, he would not have to, in your mind, spend this down. Is there...let's go to a million. Is there a point to which a family should be responsible without the possibility? [LB543]

SENATOR NORDQUIST: I find it hard to find an example and maybe this is happening in your community. It certainly isn't mine where someone would be able to stockpile a million dollars and they would have to maintain an income below 130 percent of poverty, and that if they get food stamps, they're still...that that getting food stamps would allow them to maintain their lifestyle on such a low income, yet they had an income big enough to put a million bucks away, but then losing their job, whatever happens, that if they get food stamps, if that's going to prevent them or keep them at that lifestyle, I find that a hard to believe scenario, Senator. I just don't think that that's happening. And maybe you have an example in your district that you could cite for us that that's happening. [LB543]

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SENATOR BLOOMFIELD: No, I do not rise to cite an example. I just question if there is a point at which you should spend down your own assets with them to reach into the state's pockets or the pockets of your neighbor to pay for your education, to pay for your food. Is there any point at which you should take care of yourself? [LB543]

SENATOR NORQUIST: These are absolutely hypothetical situations. The Nebraskans I know who are working hard, who are playing by the rules, wouldn't do that if they have a million dollars sitting in a bank account. I don't know a lot of Nebraskans who would take advantage of the system like that. I don't think people in my district do. Talking to Senator Harms, Senator Wightman, I know people are hurting in rural Nebraska. I don't think people in rural Nebraska would do that either. Maybe...again maybe there's situations specifically that you could cite, but these are just hypotheticals, pie in the sky situations that are not happening in Nebraska. [LB543]

SENATOR BLOOMFIELD: My question is, very simply, should they be able to happen in Nebraska, whether they are happening or not, under your proposal as I understand it, no matter how much money you have sitting there, or how much...how many assets you have, you should not have to dip into that before asking the state to help. A hundred cow rancher, a small guy, should he maybe sell one cow to help send his kid to school? Or should he maybe butcher a cow for eating? Is there a guideline there somewhere where... [LB543]

PRESIDENT SHEEHY: One minute. [LB543]

SENATOR BLOOMFIELD: ...we have reached a point we don't have to go further in. [LB543]

SENATOR NORDQUIST: That hundred cow rancher right now is...can qualify if their income is low enough. I find it hard to believe that people's income when it dips down

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that low, that if they have that many assets set aside, that they're going to want to fall to a poverty lifestyle just to get food stamps. [LB543]

SENATOR BLOOMFIELD: We are not asking if they are going to want to, we're asking is it possible under your program? [LB543]

SENATOR NORDQUIST: It certainly under a hypothetical pie in the sky scenario, it's possible. That is not real world Nebraska. We need to make policy here based on real world situations, not pie in the sky hypotheticals. [LB543]

SENATOR BLOOMFIELD: I don't believe there's anyone here that would not suggest we adjust the current guidelines. But the idea of removing guidelines to me does not sense and I stand opposed to Senator Nordquist's amendment... [LB543]

PRESIDENT SHEEHY: Time, Senator. [LB543]

SENATOR BLOOMFIELD: ...and if it is attached, I will oppose the underlying bill. Thank you. [LB543]

PRESIDENT SHEEHY: Thank you, Senator Bloomfield. Senator Nordquist. [LB543]

SENATOR NORDQUIST: Thank you, Mr. President and members. Again I've heard a number of members talk about introducing a new cap. First of all, we're not completely...we've tried to contact federal authorities through USDA to see if that's even a possibility. But the problem with that will be, if we expand that, we're going to have more people into the system, not a lot, HHS on their fiscal note says specifically that even getting rid of the cap is not going to bring many people into the system. But even if we expand that cap, if we could, we're not sure we can even can, say up to \$25,000, here's what's going to happen. All we're doing is making HHS go through this list of 29 exclusions for more people. That's going to cause...cost the state money. It's going to

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cost USDA money and to what end? To what end does that...where does that put us at the end of the day? We spend more money on administration and maybe we keep a few people, the very few. I don't think there's a lot of Nebraskans that are out to try to defraud the system. I, obviously, have colleagues that disagree with me, but I think there's very few that we would spend all this money to review all these cases, these extra cases, go through the checklist of 29 resources, the 30-page application, to prevent a few people from getting benefits they don't deserve. Even though we have the best system in the country, we have the lowest fraud rate in the country. To what...that gets us...that spends money for very few reasons. I'd rather have that money in the hands of working people so they could go spend money in grocery stores all across the state keeping people employed, keeping our grocery stores moving. This is additional money coming in to our economy. It's a net positive. So that's why even if we could make that move, it doesn't make a lot of policy sense. But getting back to it, I just don't think that there are Nebraskans who are out to defraud the system. I think they're Nebraskans who work hard and play by the rules, who fall on rough times. We've seen them. We've talked to them. If you've knocked on doors in your district, I know you've talked to them. And for me it comes back to the proverb, that if a man shuts his ears to the cries of the poor, he, too, will cry out and not be answered. Thank you, Mr. President. [LB543]

PRESIDENT SHEEHY: Thank you, Senator Nordquist. Senator Fulton. [LB543]

SENATOR FULTON: Thank you, Mr. President, members of the body. I'm going to be asking Senator Nordquist a question here in a little bit, but I wanted to, you know, share some of my own thoughts on this and maybe they're thoughts you're having too. This is, on its face, this doesn't seem like a worthy amendment, and I hear the words of Senator Bloomfield and others. They ring pretty heavy with me. But I think I can break this down into a couple of scenarios that outline the problems I'm having here. So on the one hand, you could have an individual, say a farmer or maybe a small business owner who has assets and who notoriously has assets. Folks know that he's a farmer, folks know

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that he's a small business owner, who is receiving an income that qualifies him for the SNAP program. Is it right for that individual to, as Senator Bloomfield says, to reach into the pocket of another taxpayer to help pay for his responsibilities in life, even though he has assets? In that case, I don't think that it's right that we should move AM540 forward, and that could happen. On the other hand, you might have an individual who is employed who has been saving, has a 401K, has a Roth IRA, might have some money set aside for his children for college, he's employed and he loses his job, which as we all know is happening more frequently in this economy. And for a short period of time he's going to need help putting food on the table. Bearing in mind that we are a land of abundance and that there is ample food for the people of our country, he asks for some help in the short-term until he gets back up on his feet. If we have a policy in place that says, you need to spend your Roth down, you need to spend your IRA down, you need to spend your 401K down first, then we would have in place a policy that discourages saving for the people who are in need of transitional help or for the working poor. But I'm thinking more of someone who is in need of transitional help. We'd have a policy in place that discourages him saving and encourages him to take a big hit, at least from Uncle Sam on his taxes. These are two scenarios and so this...this is a worthy debate and I mean that sincerely and genuinely. So I'm going to ask some questions of Senator Nordquist. [LB543]

PRESIDENT SHEEHY: Senator Nordquist, would you yield to Senator Fulton? [LB543]

SENATOR NORDQUIST: I certainly will, Senator Fulton. [LB543]

SENATOR FULTON: Okay. Senator, is it possible to strike some medium? So in other words, I can see where exempting an IRA or a 401K or some retirement account that's subject to penalty if one draws down on it before retirement age, I could see exempting that from the equation. But there are some instances...or some assets where I, frankly, am uncomfortable exempting, so a small business or, you know, a nice home or what have you. Do we have the ability to do that? I mean, can we do that in your

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amendment? [LB543]

SENATOR NORDQUIST: Well, first of all, on the small business side, that's...any property used for self-employment is already excluded. As far as the regulations, our regulations are the federal regulations from USDA and we've...you know, that's where they're coming from, so it kind of puts us in a box as far as what we can exclude and can't. [LB543]

SENATOR FULTON: So these are...I don't understand this. Senator Council is providing good counsel. [LB543]

PRESIDENT SHEEHY: One minute. [LB543]

SENATOR FULTON: So we have exemption already at the federal level for retirement accounts. [LB543]

SENATOR NORDQUIST: I can read you exactly here, it says, cash value pension funds including 401K plans and deferred comp plans under Section 401 and 457 of the Internal Revenue Code even if they are accessible with a penalty, IRAs are not. IRAs would count. [LB543]

SENATOR FULTON: Okay, so IRAs are not. I had a discussion with Senator Carlson here on this issue also and this...we're interjecting a lot of principles into this debate, but it seems to me that the feds are really tying our hands on this deal. So there's...well, I'm not entirely decided on this. I maybe have confused us more than anything, but I appreciate that Senator Nordquist. Thank you, Mr. President. [LB543]

PRESIDENT SHEEHY: Thank you, Senator Fulton. Senator Dubas. [LB543]

SENATOR DUBAS: Thank you very much, Mr. Lieutenant Governor and members of

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the body. I'll make a quick response here to Senator Fulton, and I know Senator Nordquist sort of answered the question. My Roth and my 401K are my cattle herd and my farm. And if I have to sell any piece of my farm or of my cattle herd, I show that on my taxes. I could be loosely penalized by selling that because now I'm going to have to show that either as a capital gain or something like that. So while it's not the same as far as what's in the bank, it is the same to security of my future. And anytime I have to sell any of my assets, I put my ability to maintain my business in jeopardy. We're having a lot of hypotheticals here. I'd like to take this...let's talk about the culture that we're dealing with, the people that we're dealing with. Small town Nebraska, it's a wonderful place to live. It's a wonderful place to raise our families. We quickly rally around anyone who is faced with difficult times or financially struggling. But I also know that in small town Nebraska, probably in Nebraska in general, there's a great deal of self-pride in taking care of yourself and pulling yourself up by your bootstraps, and not airing your proverbial dirty laundry in public. I know, I know firsthand that there are people in rural Nebraska who qualify for SNAP, but for all of the reasons that I just mentioned, are not going to apply. Because you don't go into your local grocery store where you know everybody in there and everybody knows you and pull out an EBT card. And as much as I love my small community and all the other small towns around, because they know me, that's one of the things that makes it difficult too, because they know me. And we always have the best of intentions but everybody knows your business in small town Nebraska. And so this is a decision that once someone makes it, they don't make it lightly. They're very concerned about maintaining their dignity. Not all communities have access to food pantries and distance is a challenge, especially for our senior citizens who are on fixed incomes and don't have the ability to travel maybe to a neighboring community that does have a food pantry. Would Senator Nordquist yield to a question, please. [LB543]

PRESIDENT SHEEHY: Senator Nordquist, would you yield to Senator Dubas? [LB543]

SENATOR NORDQUIST: Yes, I'd be happy to. [LB543]

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SENATOR DUBAS: Senator Nordquist, do you know how available food pantries are, especially in the more rural areas of our state? [LB543]

SENATOR NORDQUIST: Yeah, there was actually a study done here in 2010 from the Center for Human Nutrition which looked at Nebraska food pantries and did surveys across the state, and there was a significant shortage of food pantries in central, north central, and even a little bit in northeast Nebraska. On a county basis, there are many of those counties that didn't have any responses at all. So certainly in those areas it appears, according to this study, that there is a significant shortfall and availability of food pantries. [LB543]

SENATOR DUBAS: Thank you very much, Senator Nordquist. Like I said, I know of the food pantries that are in my particular area and in my district, but I also know of the areas that do not have access to a food pantry. And this is a real viable source of regular nutrition for those people who are struggling, but if you don't have access to it, that's not going to help you. I think Senator Conrad mentioned earlier about who are the people, who are the faces of those who are on food stamps who use the SNAP program. And it's the children. It's the single parent homes. It's the seniors on fixed incomes. It's those who maybe are just in the middle of a difficult time whether they've lost their job, or they've had... [LB543]

PRESIDENT SHEEHY: One minute. [LB543]

SENATOR DUBAS: ...had medical expenses that have maybe caused them to file bankruptcy because of their inability to take care of those expenses. So once they get over the hump, this isn't a lifelong commitment that they're looking at making with staying on...staying in this program. But it's a program that, again, we're highlighted. We're one of those states that has a successful program. What we're doing is working and we should be very proud of that that we're able to provide this assistance. But yet,

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as Senator Haar said, no matter what program you talk about there's always going to be someone who is going to try to game that system and unfortunately, we can't always eliminate that problem. But it's obvious that Nebraska has a program in place that's working and it's working really well. And I fully support this bill and the underlying amendment. Thank you. [LB543]

PRESIDENT SHEEHY: Thank you, Senator Dubas. (Visitors introduced.) Continuing with floor discussion on AM540 to LB543, members requesting to speak, Senator Wallman, followed by Senator Cook, Senator Council, Senator Ken Haar, Senator Krist, Senator Conrad, Senator Carlson, and Senator Nelson. Senator Wallman. [LB543]

SENATOR WALLMAN: Thank you, Mr. President. Good morning, I hope, friends all. I appreciate Senator Haar's comment. That's Conservation Reserve Program, CRP. And so farmers get a subsidy there for just letting land lie idle. So we talk about subsidies, we talk about entitlements, programs like this here. Almost everyone of us has some kind of a benefit from these programs, whether we know it or not. You fly an airplane, it's subsidized, or the airlines probably wouldn't make it. So this is a minute amount I feel that Senator Nordquist...and I'm in HHS committee and we talked about these, amendment and the bill, and we thought it they would be kind of a good fit. And so I appreciate Senator Nordquist and all the comments are made today. And I myself do not like fraud, but the food pantries in our district are busy. And I'm a rural farmer so I know we give food to the food pantries, so we know that people are hurting. Do all these people on food stamps? Some are. Are food stamps abused? As somebody probably knows in here, I'd be tightening that down what they could buy on it probably but that's individual rights so that's probably not right that I do that. But I urge your support of this amendment and the bill. Thank you, Mr. President. [LB543]

PRESIDENT SHEEHY: Thank you, Senator Wallman. Senator Cook. [LB543]

SENATOR COOK: Thank you, Mr. President. Good morning again, colleagues. I rise

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once again in support of AM540 to LB543. And since last we met, my colleague Senator Brasch was kind enough to introduce me to her iPad gadget where she showed me the current application for the Nebraska Advantage Act. In stark contrast to the application for \$1.12 per meal per person per day, this application has, instead of 30 pages, 12 pages. And as I mentioned earlier, the opportunity with this application is what could amount to hundreds of thousands and millions of dollars in nontax...that organization not paying taxes to the mutual general fund pot of money for everybody. But it also, to me, highlights a little bit of an irony and one that is evident not just in this area of public policy. The idea that there's what I believe to be a potentially inordinate amount of attention on an individual in a temporary situation in terms of getting food or assistance or perhaps seeking child support and more of, really, a trusting attitude toward an organization which, as we've seen with the issues on Wall Street and the issues with Enron before that and WorldCom before that, that if (1) if an individual or an organization is inclined to fraud, they will figure out a way to follow through on that fraud. And indeed, as one of my colleagues just reminded me, we are responsible for the allocation of these funds. I think it is the most responsible thing to advance AM540 and advance LB543, because ultimately we swore to put forward the public health and safety of the residents and citizens of the state of Nebraska. And the idea that one person may get away with something, I'm here to remind you that human beings have been figuring out a way around policies since there have been policies. And somebody else who has studied a little bit more about history or written history can tell you more about what year that was, but it would be not a brand new phenomenon. And based on the statistics that we have for participation--current participation--with a 30-page application, only at 64 percent of those families eligible, based on that number I don't think it would be hard to extrapolate the fact that there are many people in this state who would prefer to do anything but apply. So, in my mind, that really, really minimizes this fantastical idea of a person owning cars and houses and castles and yachts and rolling up to complete a 30-page application for \$1.12 per meal per person per day for food. It's for food for children. Senator Conrad mentioned that enough children every day to fill Memorial Stadium, one of the favorite places among many members in this

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Chamber, enough people to fill the stadium--I don't know if they would really be able to get up and cheer because they're hungry--but every day aren't certain... [LB543]

PRESIDENT SHEEHY: One minute. [LB543]

SENATOR COOK: ...whether or not they're going to have a meal. And we're not even talking about a balanced, healthful meal with all of the different food groups and things that are necessary for development of the brain and development of a healthy body. We're just talking about something to eat that day. There are children that go to school and that, whether they get lunch at school or breakfast at school, that's all the food they get that day, and Mom and/or Dad go hungry to make that possible. So I want you to, I guess to really consider this beyond again this idea of presupposing that people are going to cheat the system, and consider it for what it really is. It is reinforcing the idea that we hold as Americans... [LB543]

PRESIDENT SHEEHY: Time, Senator. [LB543]

SENATOR COOK: ...that we save for our future but not making them suffer... [LB543]

PRESIDENT SHEEHY: Thank you, Senator Cook. [LB543]

SENATOR COOK: ...and not eat today. [LB543]

PRESIDENT SHEEHY: Senator Council. [LB543]

SENATOR COUNCIL: Thank you, Mr. President. I have sat and listened intently and heard the concerns expressed by some who are opposed to AM540, and I understand that their opposition is based upon the fears associated with the potential for abuse of the system if the asset requirement is eliminated. And as I was sitting here, I couldn't help but think, well, in these 36 other states that have eliminated the asset requirement,

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there must have been those who shared the fears that Senator Bloomfield has expressed. And I said, so with those potentials for abuse, how is it that those 36 other states eliminated the asset requirement? And Senator Bloomfield, I did a little further checking and discovered that apparently the legislatures in those 36 states arrived at the same conclusion that I arrived at after doing some further checking, and that's that your fears about the potential for abuse are much ado about nothing, because that potential exists currently. And it exists to an extent that I found rather amazing. Vehicles, you're concerned about vehicles: right now, with the asset test, somebody could own ten Mercedes under the current asset test, okay? Senator Fulton talked about someone operating a business and their business could have \$250,000 in the bank account. But if he had less than \$2,000 in his personal bank account, he's eligible. And the point I'm making is, with all of the exclusions from the asset test, it really does nothing but burden our Department of Health and Human Services' workers in going through that exercise, spending all that time to determine ultimately that, if you have some assets, the only assets that make a difference is if you have a little cash in a savings account or an IRA. But if you have assets like farm equipment and leased vehicles and business equipment, we don't consider that anyhow. But we make our DHHS workers go through this exercise. And really, someone stated the people who are actively seeking this stop-gap benefit aren't the folks that have multimillion-dollar businesses or huge farm operations. They are people who find themselves at a point in time where they've lost their employment; they are struggling to find employment. Senator Schumacher, in my district we don't enjoy what other Nebraskans enjoy in terms of unemployment rate. Unemployment rates in my district hover around 30 percent. So when we talk about these issues and who we're trying to serve, the reason that 36 other states have eliminated the asset requirement, because it really doesn't mean much. It really doesn't prevent the potential for abuse. It exists now. So what is the benefit from removing the asset requirement? I submit to you that the benefit is some economic growth in Nebraska that more people have the opportunity to purchase locally produced products by using SNAP benefits. As a former member of the Agriculture Committee,... [LB543]

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PRESIDENT SHEEHY: One minute. [LB543]

SENATOR COUNCIL: ...I took great pride when we enacted legislation that would allow an individual to use their SNAP EBT card at a farmers' market. We talked about the lack of food pantries around the state. Well, we're encouraging the growth and expansion of farmers' markets. And now we have a way for individuals to access that locally produced foodstuffs through their EBT card, so the more people who participate in the SNAP program, the more opportunity is presented for local farmers to market their products and to meet our health and nutrition needs. And I would urge my colleagues sincerely to consider the advantage of passing AM540 to allow this state... [LB543]

PRESIDENT SHEEHY: Time, Senator. [LB543]

SENATOR COUNCIL: ...to reap the benefits that 36 others have. Thank you. [LB543]

PRESIDENT SHEEHY: Thank you, Senator Council. Senator Ken Haar. [LB543]

SENATOR HAAR: Mr. President and members of the body. Mr. President, I assured you today would be a more interesting day (laugh) when I met you this morning. I think it's really important we talk about this today, because you know what? The people that get or need food stamps don't have lobbyists. Fortunately, they have advocates, and I'm going to talk about one of those in a minute. But I want to talk, first of all, about what people have to go through to get food stamps. And I'm going to do a little bit of reading. This is from the City of Lincoln-Lancaster Health and Human Services Department. Nebraska is number one; that is, we have the longest food stamp application form in the country but we don't have the greatest participation. Only about 65 percent of Nebraskans who are eligible have applied. I would like to just tell you a little bit about our longest-in-the-nation, our number one food stamp...if you look at it, and I have a copy here. I won't hand it out, but it's 24 pages long. And by the way, if you go out to the

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Internet to fill this out, and if you don't have one at home you can go to the library. You can take all your kids and go to the library. And if you miss any of this information, you can't go back to it later; you've got to start from the beginning. So I just want you to imagine how easy it is to fill out this 24-page form. It can also time-out on you. Wyoming has five pages; Iowa has eight pages; Kansas has seven pages; New York has six pages; Maine has four pages; Alabama, three pages; California, three pages. But we're number one. We have the longest food stamp application in the country. And I want to read you some of these things that people are asked when they go on food stamps. One of the questions on page 3 is: Has anyone in your household ever been convicted of using and/or receiving food stamp benefits in exchange for firearms, ammunition, or explosives? Imagine how many people are going to say yes to that one (laugh) and how many times it's happened. Here is another question from page 4: Do you own any snowmobiles or aircraft? This is the food stamp application. I think they ought to split that into two questions, by the way, and ask (1) whether they have snowmobiles, and the other, whether they have aircraft or not. (Laugh) That may take care of some of the concerns of (laugh) Senator Schumacher. A question on resource summary: Does anyone in your household have access to a burial fund or burial trust or burial spaces? Now the trouble with that question is not only that what difference does it make; but you have no idea, if you say yes, if that makes you ineligible. Here is one about employment: Are you...from page 1 on the 24-page form...are you or is anyone on your household on strike? Again, if I say yes, does that mean I'm disqualified or not? There's no indication on the form. Again, think of somebody who has got to go to the library because they don't have a computer at home, and they have to fill this out; there is a time to it. If they skip anything, it just blanks it out and you've got to come back and start the next time. Page 2: Is anyone receiving or has anyone applied for any of the following income prizes, awards, winnings, and lottery? Yes or no. And so if you win a \$1 pickle card, does that make you ineligible? It doesn't tell you. Here's another one from page 2: Is anyone receiving or has anyone in your household applied for any of the following income, like graduate stipend? So if I'm a graduate student with a family, does this make me ineligible? If not, you know...it doesn't tell you. And then: Did you or did

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anyone in your household help pay heating or cooling bills in the past 12 months? And so, like if my brother helped me pay my heating bill, does that make me ineligible for food stamps? We don't know. [LB543]

PRESIDENT SHEEHY: Time, Senator. [LB543]

SENATOR HAAR: Thank you. [LB543]

PRESIDENT SHEEHY: Thank you, Senator Haar. Senator Krist. [LB543]

SENATOR KRIST: Thank you, Mr. President. I'm observing the body as this debate goes on, and I think I'm confused a little bit and I think we need to focus. The difference between a rocket and a missile is the guidance system, and I think we've got a rocket going on here rather than a missile. I'm going to give you an example, a real-life example of the people in Nebraska. I'm involved with some special needs folks and their families. And it takes an incredible amount of convincing for most people in Nebraska to apply for SSI benefits for their special needs dependents, because the Nebraska way is "I can take care of my own. I don't need the government. I don't need the help." Those are the people that I have dealt with. And I grant you, I don't spend all of my time in Senator Council's district, but I spend a little bit of my time in the north part of Omaha dealing with people who have special needs. It's not fun to go in and identify yourself as someone who is using the government to eat. It's not fun to apply for these programs and fill out the forms. Most people fill them out because it's essential to their life. It's essential because they can't afford to do what they need to do overall. So I take great exception to those who will say we're setting up a process and we don't want people to cheat. So refocusing on what we're talking about here and trying to put a guidance system back into this, I believe you need to look at AM540 and LB543 as an opportunity for us to join with 36 other states who are helping people who need help. This is one of those things that government can do. Remember the statistic that Senator Campbell threw out earlier: Over 50,000 people in a database and only 85 were cheating the

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system. That is a statistical anomaly. That's not even worth mentioning. Let's refocus on this thing. Let's try to talk about AM540 and what it will do for the people who need it. Let's try to talk about the people of Nebraska who do need it and let's try to put some meaning to AM540 and LB543 in the next few minutes...or hours. And I would yield the rest of my time to Senator Conrad if she wants it. [LB543]

PRESIDENT SHEEHY: Senator Conrad, you are yielded 1 minute 50 seconds. [LB543]

SENATOR CONRAD: Thank you, Mr. President. Thank you, Senator Krist. I appreciate it. Colleagues, I think that this is really about some simple philosophies as we move forward here that describe what it means to live, work, and prosper in a society. We have shared benefits, shared goals, and shared objectives. We subsidize public education, K-12 and higher. We do not have an asset test for who enters our public schools. We share those costs and burdens with each other because it's for the good of society. Think of it in any other context where the state is involved, the same principles apply. Colleagues, this isn't about picking winners and losers. This isn't about vilifying certain vulnerable aspects... [LB543]

PRESIDENT SHEEHY: One minute. [LB543]

SENATOR CONRAD: ...or prospects of...or populations in our society. This is about a simple philosophy that I believe deeply in and I know many of you do as well. When all Nebraskans have a chance for success, all Nebraskans benefit. This is about our shared economy, this is about our shared society, and this is about moving forward even when times are tough. This is about modernizing our public benefits system to more closely match how other states and the federal government have evolved and modernized their system. This is an important piece of legislation that we've had such an important dialogue about today to talk about common ground and shared values. And I know that you believe the same way that I do: When everybody has a chance for a hand up, we help those folks out. That helps all of us; that helps all of us. The less

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hungry kids and the less elderly folks we have in each one of our districts, in each one of our communities, helps all of us to be prosperous, helps all of us to move forward.
[LB543]

PRESIDENT SHEEHY: Senator Conrad, you're now on your time. [LB543]

SENATOR CONRAD: Question. [LB543]

PRESIDENT SHEEHY: There has been a call for the question. Do I see five hands? I do. The question before the body is, shall debate cease on AM540 to LB543? All those in favor vote yea; opposed, nay. Record, Mr. Clerk. [LB543]

CLERK: 25 ayes, 5 nays to cease debate, Mr. President. [LB543]

PRESIDENT SHEEHY: Debate does cease. Senator Nordquist, you're recognized to close on AM540. [LB543]

SENATOR NORDQUIST: Thank you, Mr. President and members. We had a very lengthy debate yesterday and today on this issue, and I think that debate reflects the depth of the content here. We're talking about very in-depth federal rules and regulations, many of which we have no control over. Our hands are kind of tied on this deal. The question is whether or not we're going to move beyond the \$2,000 limit, essentially, on our countable assets at this point in time. And we've heard stories over the last day and half, now, of people who have been impacted on that. I know there's been many concerns and we are kind of talking about an alternative here, and I'm very open to between now and Select File, if we can come up...I know Senator Carlson had a great solution and he didn't get a chance to talk about it on the mike, but to maybe move the cash limit to \$25,000 so that an income would be your qualifiers on a simple form. I don't know that...in the meantime, we have to work with HHS and see if that's administratively possible. If it is, I would support that solution. I think that's a way for us

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to move forward. So I hope we can support this amendment. And if we can get to that point and make the administration possible with no cost to the state, as this amendment does, I think that's where we go. Ultimately, this amendment as introduced as LB663, which was advanced from the Health Committee with I believe 6 votes, it allows us two things: to streamline the process...we talked all day about the minutia of the federal rules and regulations, 29 points of exemptions to the asset limit, a 30-page application to file for these benefits which amount to a buck a meal a day, roughly. This allows us to streamline; to take that burden off of a department and a division within the Department of Health and Human Services that is seeing budget cuts right now. While we're asking them to do more with less, let's give them a tool to be able to do more with less. And that's what this tool is. Mr. President, a lot of the debate focused on Nebraskans today and those that are struggling. And I fundamentally believe that Nebraskans are good people who will go out and use this only when they fall on hard times, and not fleece the system. We're better than that. I know that Nebraskans are better than that and I'd appreciate your support of AM540. Thank you. [LB543 LB663]

PRESIDENT SHEEHY: Thank you, Senator Nordquist. You have heard the closing. The question before the body is on the adoption of AM540 to LB543. All those in favor vote yea; opposed, nay. Record, Mr. Clerk. [LB543]

CLERK: 25 ayes, 8 nays, Mr. President, on the amendment. [LB543]

PRESIDENT SHEEHY: AM540 is adopted. [LB543]

CLERK: Mr. President. Senator Harms, I have AM573, but I have a note you want to withdraw that, Senator. [LB543]

PRESIDENT SHEEHY: AM573 is withdrawn. [LB543]

CLERK: I have nothing further on that bill, Mr. President. [LB543]

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PRESIDENT SHEEHY: We'll now return back to floor discussion on LB543. Members requesting to speak: Senator Carlson, followed by Senator Wallman and Senator Ken Haar. Senator Carlson. [LB543]

SENATOR CARLSON: Mr. President and members of the Legislature, I was disappointed that debate ceased before I could have an opportunity to speak on this bill. First of all, I think that LB543, by itself, is a very good bill. And my understanding, it's simply to encourage and help people who would qualify for assistance, but haven't applied, to apply and receive benefits. And I think that that's the right approach and that's a good bill. Now I'm going to go through what my suggestions were, even though we've had 25 votes on advancing AM540. And with the asset test, prior to AM540 going forward, we talked about the fact that there's a 30-page application for benefits. There is the asset test. And, of course, AM540 eliminated all of the asset tests. Now part of the asset test that I think was entirely unfair was a cash account limit of \$2,000, and that was instituted in 1985. We're in 2011. It's not even close to what it should be. But I don't approve of the total elimination of any asset test. I can understand the problem with the 30-page application. I can understand that being a problem for people who apply. I'd have difficulty with a 30-page application. I can understand it's a problem with HHS personnel who are to evaluate that application. But I would like to have seen us attempt to put a one-page asset evaluation form with LB543 which simply said: Do you have \$25,000 or less in a cash account? Not \$2,000. Twenty-five thousand dollars or less in a cash account. This cash account would not include an IRA, a 401(k), or any qualified retirement plan. That wouldn't be a part of the asset test nor would cash value in life insurance owned by the applicant be a part of that. But it wouldn't have eliminated everything in the way of assets, and that's what I wasn't comfortable with. I appreciated Senator Nordquist being willing to cooperate on this. The question was, could we do it? And I don't understand how we can have some mandates come from the federal government that disallow us with rights that we ought to have as a state to put things in order so that we can help our people that need help. And this would have been a very

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simple solution to that, streamlined the whole process, made it tolerable for HHS in checking these things out. And hopefully we'll find out whether that's possible or not, and I'll still talk to Senator Nordquist and see if he would be interested in such a thing even on Select File. Thank you, Mr. President. [LB543]

PRESIDENT SHEEHY: Thank you, Senator Carlson. Senator Ken Haar. [LB543]

SENATOR HAAR: Mr. President and members of the body, I handed out something; I hope you'll take a look at it. I'd like to go through it briefly with you. I know she will not accept this description, but I think we have a Mother Teresa of sorts in Lincoln. Her name is Beatty Brasch and many of you know her. Pretty much single-handedly, she has put together the Center for People in Need on North 27th Street. And if you haven't been there, you need to visit. As you see from the cover, during Thanksgiving weekend 2010, the Center for People in Need distributed food and other items to 2,000 poor and low-income people residing in or near Lincoln. This puts a face on the poor and the needy in Lincoln, Nebraska. Recipients were asked to fill out a survey, and in the back of this booklet that's attached is a survey, if you'd like to look at the survey. But I would like to point out some pages in this book, very quickly. Page 7, the response. Do you or others skip meals because there's not enough food? Look at that graph. Thirty percent of the people said, that responded, the people that came to the Center for People in Need said that they sometimes skip meals because they don't have enough food. Look at the question below it on page 7: Have you had to choose between buying food and paying your bills? And look at the results of that as well. If you look at page 12: Do you have family or friends to help you get back on your feet? Hey, this shows that Lincoln is not all that different from rural Nebraska, where I think most often people, neighbors, would step up and help those in need. But it's assuring to see that over 50 percent of those who responded said at least they have family or friends that can help them in situations. And then on the bottom of page 12: Do you have any savings? That is really pretty interesting. Look at, there's 7.5 percent of the people responding--these are the 2,000 people that were served during Thanksgiving weekend by the Center for People

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in Need and responded to the survey. And 7.5 percent said they had any savings; 92.5 percent said they have no savings whatsoever. And on and on. This is the face of poverty in Lincoln, Nebraska. And I'm sure that it's not too different. My understanding of LB543 is we need to reach out to the people that are eligible for this kind of support and give them the support they need. These are not freeloaders. These are people who are living day to day in our society. They are our brothers and sisters and we are responsible for them. Thank you very much. [LB543]

PRESIDENT SHEEHY: Thank you, Senator Haar. (Visitors introduced.) Continuing with floor discussion on LB543, members requesting to speak: Senator Bloomfield, followed by Senator Campbell. Senator Bloomfield. [LB543]

SENATOR BLOOMFIELD: Thank you, Mr. President. I voted LB543 out of committee. With what I feel to be a very onerous amendment, I can no longer support LB543 and will oppose it. Thank you. [LB543]

PRESIDENT SHEEHY: Thank you, Senator Bloomfield. Senator Campbell. [LB543]

SENATOR CAMPBELL: Thank you, Mr. President. And I do want to follow up to Senator Carlson's comments. And I know I have his assurance and Senator Nordquist's that the three of us will sit down and we will work on Senator Carlson's proposed amendment. Unfortunately, we have calls into Washington. We are checking with the department. We just could not get all of that done in time. But you have my assurance that all three of us will work to bring an amendment, if we can, to the floor on Select. Thank you, Mr. President. [LB543]

PRESIDENT SHEEHY: Thank you, Senator Campbell. Seeing no additional requests to speak, Senator Cook, you're recognized to close on LB543. [LB543]

SENATOR COOK: Thank you, Mr. President. Thank you, members. At this point I would

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just ask for your agreeing on LB543. Our Chairwoman Senator Campbell has just told everyone they were going to continue to work on some of the issues that caused you to not vote in full support at this time. And I would also at this point ask for a call of the house. Thank you, Mr. President. [LB543]

PRESIDENT SHEEHY: Thank you, Senator Cook. There has been a request for the call of the house. The question before the body is, shall the house be placed under call? All those in favor vote yea; opposed, nay. Record, Mr. Clerk. [LB543]

CLERK: 25 ayes, 0 nays, Mr. President, to place the house under call. [LB543]

PRESIDENT SHEEHY: The house is placed under call. All unexcused senators, please report to the Legislative Chamber. All unauthorized personnel, please step from the floor. The house is under call. Senators, please record your presence. Senator Wightman, Senator Burke Harr, Senator Lathrop, Senator Utter, Senator Wallman, Senator Ashford, Senator Council, the house is under call. Senator Cook, all members are present or accounted for. Members, you have heard the closing to LB543. Senator Cook, how would you like to proceed? [LB543]

SENATOR COOK: Roll call. [LB543]

PRESIDENT SHEEHY: There has been a request for a roll call vote. Mr. Clerk. [LB543]

CLERK: (Roll call vote taken, Legislative Journal page 702.) 35 ayes, 2 nays, Mr. President. [LB543]

PRESIDENT SHEEHY: LB543 advances. Speaker Flood, you're recognized for an announcement. [LB543]

SPEAKER FLOOD: Thank you, Mr. President, and good morning again, members.

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Quick note as it relates to tomorrow. We are going to take up Final Reading tomorrow, probably two hours' worth of Final Reading. There will also be a motion specifically to return Final Reading bills to Select on LB81 from Senator Cornett and on LB62 from Senator Heidemann, and then I anticipate moving into some General File priority bill debate to round out the day tomorrow, time providing. So that's a snapshot as to what you can expect tomorrow. Again Final Reading; a couple Final Reading bills that will come back for a specific motion that we know about already; and then General File debate on priority bills. Thank you, Mr. President.

PRESIDENT SHEEHY: Thank you, Speaker Flood. The call is raised. Mr. Clerk, do you have items for the record?

CLERK: Mr. President, I do. Senator Karpisek would like to print an amendment to LB256. Senator Adams, Chair of Education, reports LB372 to General File and LB544 to General File. Senator Wightman, as Chair of the Executive Board, reports LB611 indefinitely postponed. Senator Langemeier, as Chair of Natural Resources, reports LB229 to General File with amendments. I also have two confirmation reports from Natural Resources Committee. Priority bill designation: Senator Dubas, LB297; Senator Gloor, LB546. And Enrollment and Review reports LB284 as correctly engrossed. That's all that I have, Mr. President. (Legislative Journal pages 703-705.) [LB256 LB372 LB544 LB611 LB229 LB297 LB546 LB284]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. We'll now move to the next item under General File. []

CLERK: LB34 by Senator Loudon. (Read title.) Introduced on January 6 of this year, at that time referred to the Health and Human Services Committee. The bill was advanced to General File. There are committee amendments pending, Mr. President. (AM201, Legislative Journal page 535.) [LB34]

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PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Louden, you're recognized to open on LB34. [LB34]

SENATOR LOUDEN: Thank you, Lieutenant Governor, and good morning, members of the Legislature. I bring before you today LB34 to address a situation that arose at the Marian Residence in Alliance in my district. The Marian Residence was renovated from a nurses' school years ago to an aspirant school, and after that then it was when St. Joseph Hospital in Alliance closed, which was run by the religious order of the Sisters of St. Francis of Penance and Christian Charity. The Box Butte community then constructed their hospital and furnished it, which is now today is Box Butte General Hospital. The Marian Residence then was then developed into a retirement convent home for retired sisters of their religious order. This was done over 20 years ago but I don't recall the exact time frame, but it was several years ago. The Marian Residence is a convent. This is the home of the religious order of the Sisters of St. Francis of Penance and Christian Charity and should be considered as such. They don't receive any state funding and they completely support themselves and care for each other as family members. In 2001, the statutes were changed and fraternal organizations were then required to have a license to operate a nursing home. Most fraternal organizations charge a fee to the residents, and there is a difference between how a fraternal organization operate and what the Marian Residence accomplishes. About a year ago, the Department of Health and Human Services notified the Marian Residence that they needed to be licensed. Being licensed would require the Marian Residence to hire a registered nurse and other assistants. Requiring a license for the convent would put an unnecessary cost on this family. This facility is home to these sisters and only members of the religious order live there. They care for their own family members, and I would ask that you consider the system that the sisters have in place an exempt convent from having to be licensed when caring for their own family members. The amendment AM201 which became the bill is a clarification of the language that describes or redefines a convent that is any facility which is used as a residence for members of an organization, association, order, or society organized and operated for religious

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purposes, which is not operated for financial gain or profit for the organization, association, order, or society, and which serves as a residence only for such members who in the exercise of their duties in the organization are required to participate in congregant living within such facility. And that would be exempt from the provisions of the Health Care Facility Licensure Act relating to licensure or regulation of assisted-living facilities, intermediate care facilities, and nursing facilities. And this was...we worked on this bill most of the summer. I had many meetings with people from the Health and Human Services, worked with Dr. Schaefer to come up with language that would describe a convent, and agreed that these people were looking after their own healthcare and that it would not have to be licensed. At the present time, when some of these residents of this here actually need nursing...specialized nursing care, they are usually moved into a nursing home such as you would do with your own family members. So I would ask for your approval of AM201 and to advance LB34 to Select File. Thank you, Mr. President. [LB34]

SENATOR GLOOR PRESIDING

SENATOR GLOOR: Thank you, Senator Loudon. As the Clerk stated, there are amendments from the Health and Human Services Committee. Senator Campbell, as Chair of the committee, you are recognized to open on those amendments. [LB34]

SENATOR CAMPBELL: Thank you, Mr. President and members of the body. I'm introducing the committee amendment AM201 to LB34. And my remarks are somewhat lengthy but we want to make sure that the record is very clear as to how we are approaching this amendment. AM201 provides a religious exemption to provisions of the Health Care Facilities Licensure Act relating to licensure or regulation of assisted-living facilities, intermediate care facilities, and nursing facilities. The exemption is allowed for a facility that is used as a residence by members of an organization, association, order, or society organized and operated for religious purposes and for such members who, in the exercise of their duties in the organization,

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association, order, or society, are required to participate in congregant living within such a facility. This exemption allows the facility that is a primary residence for members of a religious organization who reside in such facility as their home while fulfilling their religious duties to be treated in a similar fashion as a family home as the members age. The amendment is narrowly defined as a religious exemption (1) for those whose religious duties require congregant living, (2) the facility is a residence only for members of the religious order, and (3) is organized and operated for religious purposes, not for financial gain or profit. Finally, the amendment strikes the exemption for skilled nursing facilities that was included in the original bill. The exemption under the committee amendment AM201 relates to licensure for assisted-living facilities, intermediate care facilities, and nursing facilities, but not skilled nursing facilities. The exception becomes effective only when a facility's activity would be considered for regulation as an assisted-living, intermediate care, or nursing facility. General congregant residential living not subject to regulation and licensure is not within this scope of this subsection. And I want to really thank Michelle Chaffee, who is the legal counsel to the Health and Human Services Committee, for an extensive legal work on this bill. What started out as a very simple bill required much legal research to make sure that we were meeting all criteria that would need to go into such an amendment and a bill. And with that, I would ask the members' support of AM201 and LB34. Thank you, Mr. President. [LB34]

SENATOR GLOOR: Thank you, Senator Campbell. Members, you have heard the opening on LB34 and Health and Human Services Committee amendment AM201. We now move to discussion. Senator Fulton, you are recognized. [LB34]

SENATOR FULTON: Thank you, Mr. President and members of the body. Would Senator Campbell yield to a very brief question? [LB34]

SENATOR GLOOR: Senator Campbell, would you yield to a very brief question? [LB34]

SENATOR CAMPBELL: Yes. [LB34]

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SENATOR FULTON: Just putting a clarifier in the record, Senator. I discussed this with you yesterday and I thought maybe I wouldn't say anything, but it's worth at least putting it in the record. My understanding of the amendment and the bill: This bill would not create a presumption that a residence for religious members must satisfy the conditions for exemption if it would not be subject to licensure in the first place, correct? [LB34]

SENATOR CAMPBELL: [LB34]

SENATOR FULTON: There's no presumption created here by putting this forward. [LB34]

SENATOR CAMPBELL: Not that we are aware of at all. And it's really much more intended, Senator, as I told you yesterday, for those in a religious order or association or so forth who finally come to see as this as their home within those religious duties. [LB34]

SENATOR FULTON: Okay. Thank you, Senator. Thank you, Mr. President. [LB34]

SENATOR GLOOR: Thank you, Senator Fulton. Senator Conrad, you are recognized. [LB34]

SENATOR CONRAD: Thank you, Mr. President. And I was hoping that the Chair of the Health and Human Services Committee, Senator Campbell, might yield for a question. [LB34]

SENATOR GLOOR: Senator Campbell, would you yield? [LB34]

SENATOR CAMPBELL: Absolutely. [LB34]

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SENATOR CONRAD: And Senator Campbell, I have to apologize. I said a question. I'll probably have at least a couple questions, but I know that you are a good sport and will be helpful in this. I was listening intently to your opening on the committee amendment and I just wanted to make sure that I fully understand that this indeed is a very narrow religious exemption, so it only applies for residents for a certain religious group or sect, is that right? It wouldn't extend to, say, for example, health clinics that are a part of the St. Elizabeth's network? [LB34]

SENATOR CAMPBELL: Senator, this is meant to be a very narrow exception. You are absolutely correct. This is not open up the floodgates to many other avenues or residences, but in trying to deal with the problem that was brought to Senator Loudon--and I appreciate the work that he has gone into with his staff. We focused our whole amendment as narrowly as possible. [LB34]

SENATOR CONRAD: That is very helpful. And Senator, I apologize if I missed it. I had to step out for just a moment, and maybe you or Senator Loudon can address this. In conducting research on this topic, were you able to identify approximately how many different facilities this might apply to, currently in Nebraska? I don't know if that came up as part of research or not. [LB34]

SENATOR CAMPBELL: Senator, that question might be posed to Senator Loudon. In our research, we didn't specifically look at the numbers that might be, but it would be relatively small that would apply. And again, that's why it's very narrowly written. Because at some point, in the large scheme of things, in great numbers, you obviously want the licensure there. In this situation, it's very narrowly defined why you do not need to proceed with a license. [LB34]

SENATOR CONRAD: Okay. And I thank you for that, Senator. And Senator Loudon was actually just helping me to understand, off the mike, as well, that he also believes it will be a very, very narrowly targeted exemption to maybe less than a handful of

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potential organizations or facilities. And I think that is important to know. And this is just something that came to mind as I was reading the legislation and the committee amendment, and I don't know if it was part of the committee dialogue or not, and so, Senator Campbell, I don't know if you're familiar, if you've been following or reading in the newspaper anything about that religious group in Omaha that called themselves, I believe, the Intercessors of the Lamb and how there were a variety of problems with their living conditions and public health conditions and other things. And so I just want to make sure we proceed very cautiously and don't remove a watchful eye on what, under the auspices of religion, can sometimes be a very harmful situation for people. [LB34]

SENATOR CAMPBELL: Senator, I think that's a legitimate question. What one has to keep in mind with LB34 and the underlying amendment, this deals with what I would call the years leading to the end of your life and regulation of assisted-living facilities, intermediate care facilities, and nursing facilities. This is not the general population. This is as we age and those members of a religious order who have formed a sense of family that their family can take care of them in the final years of their life. [LB34]

SENATOR GLOOR: One minute. [LB34]

SENATOR CONRAD: That's very helpful, Senator Campbell. I think that this looks like a good piece of legislation that will affect a very small group of people and carries out some very important public policy issues to ensure that they can conduct this kind of activity in the most appropriate way possible for how they interact with the state and then also to uphold their religious traditions and beliefs. So I really appreciate you shedding some light on the committee's process. It is helpful. And thanks to Senator Loudon for his good information as well. [LB34]

SENATOR GLOOR: Thank you, Senator Conrad. (Visitors introduced.) Senator Nelson, you are recognized. [LB34]

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SENATOR NELSON: Thank you, Mr. President, members of the body. You may not recognize my voice today but I'm just going to ask a quick question of Senator Campbell if she would yield. [LB34]

SENATOR CAMPBELL: Yes, of course. And I do like the new voice. [LB34]

SENATOR NELSON: Thank you. Thank you. I wish I could speak at this register all the time. Senator Campbell, I'm just simply curious why you did not exempt skilled nursing facilities. Is that because there's no possibility that a residence of this sort could ever be a skilled nursing facility, or if the residents, for instance, did decide to employ a registered nurse? Just give me the thinking on that. [LB34]

SENATOR CAMPBELL: Yes. I think that's an excellent question, Senator. We excluded that because I think there are a number of criteria that come into play besides just a registered nurse that we felt that that care probably could not be provided as easily in this type of a residence. You are absolutely correct. I mean we just didn't feel that it could meet all the criteria. [LB34]

SENATOR NELSON: All right. Thank you very much. Thank you, Mr. President. [LB34]

SENATOR GLOOR: Thank you, Senator Nelson. There are no other senators wishing to be heard. Senator Campbell, you're recognized to close on the committee amendments. [LB34]

SENATOR CAMPBELL: I will waive. [LB34]

SENATOR GLOOR: Senator Campbell waives. The question is, shall the committee amendments to LB34 be adopted? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB34]

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CLERK: 33 ayes, 0 nays, Mr. President, on adoption of committee amendments. [LB34]

SENATOR GLOOR: The amendment is adopted. Discussion. [LB34]

CLERK: I have nothing further on the bill, Mr. President. Excuse me. [LB34]

SENATOR GLOOR: Seeing no senators wishing to speak, Senator Loudon, you're recognized to close on your bill. [LB34]

SENATOR LOUDON: Thank you, Mr. President and members. As we discussed this, this is a facility in Alliance. As far as I know, it's the only one in the state of Nebraska. And what brought this about is the Sisters of St. Francis has had a presence in western Nebraska and Alliance since before the turn of 1900. I think it was 1901 or 1902 when they came in to the country and built a hospital there. And one of my uncles said he can remember when they were walking around on foot around that part of the country getting money to build this hospital. Since then, they've built hospitals, they've built a school, and they built this aspirant school. And as they've had this property, it's progressed to where they use it for a retired facility for members of their order. The order is actually headquartered in Denver, Colorado, and it covers all of the central United States. So this is their property there. They hire people there and staff people to help with the assistance of their people. It's a very good deal. They look after their own people. It would probably, if the state of Nebraska had to fund something like this, you'd be talking of over a half-million dollars a year--and these folks do this themselves. So with that, I would ask that you would advance LB34. Thank you, Mr. President. [LB34]

SENATOR GLOOR: Thank you, Senator Loudon. Members, the question is the advancement of LB34 to E&R Initial. All those in favor say aye; all those opposed vote nay. Have you all voted? Record, Mr. Clerk. [LB34]

CLERK: 34 ayes, 0 nays, Mr. President, on the advancement of LB34. [LB34]

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SENATOR GLOOR: The bill advances. Mr. Clerk. [LB34]

CLERK: Mr. President, the next bill is LB51. It is a bill by Senator Krist. (Read title.) Introduced on January 6 of this year, referred to the Health and Human Services Committee. Advanced to General File. I have committee amendments as well as other amendments pending to the bill, Mr. President. (AM79, Legislative Journal page 536.) [LB51]

SENATOR GLOOR: Senator Krist, you're recognized to open on LB51. [LB51]

SENATOR KRIST: Thank you, Mr. President and members of the body. Good morning again. As indicated on the committee statement, LB51 advanced from the Health and Human Services Committee on a 5-1 vote with one member not voting. There was no opposition or neutral testimony. At its core, LB51 is about patient safety, patient health, and patient protection. LB51 requires a health clinic, prior to being licensed under the Health Care Facility Licensure Act, to have a patient transfer agreement in effect with a local hospital. Specifically, LB51 applies to health clinics classified as a health clinic H licensure only or as a corporate-owned public health clinic. You are receiving handouts that will explain that classification and it will also enumerate the number of clinics that are being affected. There are 25 of them. LB51, in Section 2, specifically exempts public health clinics operated by the department, any county, city-county, multicounty health departments from the requirement of needing a patient transfer agreement, as their mission is markedly different than that of a health clinic performing medical procedures, some of which can be quite invasive and require emergency medical attention possibly beyond the capabilities of that individual clinic. The patient transfer agreement must include that the hospitals will accept patients covered by Medicare, provide emergency room services--which is covered by law, and allow clinical privileges for physicians performing surgery at the health clinic. The agreement also must include procedures for appropriate transfer of patients, continuity of care, support in maintaining emergency

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capacity, including on-call coverage. The department will adopt and promulgate rules and regulations for the patient transfer agreement requirements, and as a minimum, the hospital must have reasonable distance parameters, emergency room services, and hospital capacity. When the department provides a license to a health clinic to open, our state is putting a stamp of approval on that facility. In that licensure process, we should be concerned about more than mere physical plant concerns: namely, heating, ventilation, HVAC systems, size and dimension of stainless steel, etcetera. The state has a responsibility to ensure patient protection, patient safety, and patient health, including the continuity of care in the event of an unfortunate accident. Those are paramount concerns reviewed during the licensing process. Requiring health clinics to have an active transfer agreement with a local hospital will ensure the standards and the continuity of care is in place for the patient and, in fact, will put that health clinic on the map in the local area and bring to the attention of the local area that it is there and performing a service. In closing, I want to thank those who have testified in support in LB51 at the committee hearing and my colleagues on the Health and Human Services for their support of this bill. I would note that we probably will not get through this before we recess today and I would invite you to take a look at those two handouts and keep them at your desk. I will talk to them specifically in days to come. I would also invite you, if you're a mind to, to go back to the year 2000 and pull up what was LB819. LB819, in the year 2000, pretty much dismantled the oversight that the state had over its health clinics. And we are here today...we are here today in the situation that we are in because of that lack of oversight in our health clinics throughout the state. I ask for the advancement of LB51 to Select File following the adoption of AM79 offered by the committee. And I will talk to the committee amendment after it's presented. Thank you, Mr. President. [LB51]

SENATOR GLOOR: Thank you, Senator Krist. As the Clerk stated, there are amendments from the Health and Human Services Committee. Senator Campbell, you are recognized to open on the amendments. [LB51]

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SENATOR CAMPBELL: Thank you, Mr. President. I rise to open on committee amendment AM79 to LB51. The committee amendment strikes the requirement that in order for a hospital to be eligible to participate in a patient transfer agreement with a health clinic, the hospital must allow--and I want you to remember the word "must"--must allow clinical privileges for physicians performing surgery at the health clinic. Instead, AM79 states that in order for a hospital to be eligible to participate in a patient transfer agreement with a health clinic, the hospital shall allow qualified physicians performing surgery at the health clinic clinical privileges pursuant to Section 71-2048.01. Section 71-2048.01 is the current law covering clinical privileges, standards, and procedures. The purpose of this amendment is to remove the requirement under LB51 that hospitals must provide clinical privileges to physicians at health clinics as a part of the transfer agreement. Instead, this amendment maintains the current law allowing hospitals the ability to establish reasonable standards and procedures for considering and acting upon an application for medical staff membership and privileges. Clinical privileges is neither automatically provided nor denied as a condition of a hospital entering into a transfer agreement with a health clinic. As a result of adopting this committee amendment AM79, clinical privileges between hospitals and health clinics continues to be addressed pursuant to current Nebraska law. At this point, the committee felt very strongly about this amendment to clarify this, because we cannot nor should we, according to current law or any change in it, force a hospital to change their policies with regard to credentialing and bringing physicians in. Right now, each hospital sets up those procedures, and in many cases the acceptance of a physician goes all the way to the board of directors of that hospital. And we wanted to maintain that current law. And I know that Senator Krist agrees with this amendment also. And with that, Mr. President, I will conclude my remarks on the opening to AM79. [LB51]

SENATOR GLOOR: Thank you, Senator Campbell. Mr. Clerk, priority motion. [LB51]

CLERK: Mr. President, I do. I have a priority motion. Senator Cook would move to

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recommit LB51 to the Health and Human Services Committee. [LB51]

SENATOR GLOOR: Senator Cook, you are recognized. [LB51]

SENATOR COOK: Thank you, Mr. President, and thank you, Mr. Clerk. I am recalling last year...in fact, I have a copy of it, the original--probably suitable for a "Speaker of the Legislature Library" in the future, a copy of a preflight checklist that each member received either a hard copy of and/or via e-mail last January. And I will share it with you because we have some new people here. Speaker Flood provided this for us last year: Are you ready for your bill? Are you familiar enough with your bill to answer specific questions about the bill? Can you answer questions about what specific language means and why that language was used? Who in the body will support and speak for the bill? Have you identified who in the body could have concerns? Will anyone be opposed to the bill? Have you spoken with potential opponents to find out their position on the bill? After pinpointing your opponents, have you tried to work out their concerns or at least specifically identified what those concerns are? And finally, is anyone in the body opposed to the bill? Who in the body will share and express those concerns? Again that was provided by the Speaker's office. It makes a reference in parentheses at the bottom about this: The goal is not to land in the Hudson. And that has to do with the airplane that ended up getting deplaned in the Hudson River. I am a member of the Health and Human Services Committee. New to the committee. I'm enjoying my committee work very, very much. I brought the motion to recommit for a number of reasons. We had questions within the committee that were not addressed before it was advanced to the floor. And one question that came up that we didn't get an answer to was the federal law Emergency Medical Treatment and Active Labor Act, also referred to as EMTALA, already requires hospitals to provide emergency care to anyone who needs it. Because EMTALA would already require a hospital to treat someone transferred from a local clinic in an emergency, isn't this law a solution in search of a problem? So that was a question that emerged. There were also some questions related to I'll call it anti-competition. But could it be that a smaller community could

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simply target a healthcare practitioner or target a specific outlet for...basically to squeeze him or her out, businesswise, and not issue them the appropriate paperwork. That is something else that came up. We did not get answers to that, and for that reason I'd like to recommit. I'd also like to share with you some of the transcript from a more recent floor debate, again in which our fearless leader, the Senator Flood, said, "I would like to remind every member that as a member of a committee you have an obligation to work on the legislation in your committee and make sure that it is in the best possible form. Do the best job you can to identify the concerns of opponents, and if you're willing, vote to amend the bill accordingly." It goes on later: "The goal in this branch of government is not how many bills we pass, it's not the number of the laws that are enacted at the end of the day; it's the quality, the workmanship, and ultimately, the work product that we send over to the Governor's Office and whether or not we decide to override a veto in some situations." I would offer again the motion to reconsider. These are two questions that emerged that I can recall that were not answered, in my view, as we went through the committee process. Thank you, Mr. President. [LB51]

SENATOR GLOOR: Thank you, Senator Cook. Senator Harms, you are recognized. Senator Harms. [LB51]

SENATOR HARMS: Thank you, Mr. President and colleagues. Senator Krist, would you yield to a couple questions? [LB51]

SENATOR GLOOR: Senator Krist, would you yield? [LB51]

SENATOR KRIST: Absolutely. [LB51]

SENATOR HARMS: Senator Krist, I'd just like to visit with you a little bit about some concerns that I have with this legislation. Maybe you could help me clarify this. [LB51]

SENATOR KRIST: Okay. [LB51]

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SENATOR HARMS: Senator Krist, as we look at the transfer agreement between local hospitals and a licensed healthcare facilities, are these only going to be public facilities? Or are public facilities...excuse me, exempt from this? Do you understand my question? [LB51]

SENATOR KRIST: Public hospitals? Public clinics? [LB51]

SENATOR HARMS: I'm talking about public facilities, you know, the clinics? Are... [LB51]

SENATOR KRIST: The clinics themselves in the category that have been enumerated in the bill, there are 25 of them, and they are specific to that category of health clinic that's carried in the Health and Human Services manual. They are in some cases public and in some cases private or corporately owned. [LB51]

SENATOR HARMS: Senator, does this...I mean what are the size of these clinics, and are these primarily independent clinics? [LB51]

SENATOR KRIST: They are independent clinics. Some of them are corporately owned, again as I said. They are clinics that are set up usually licensed to a physician or to a clinician, and the certification follows the license of that person. [LB51]

SENATOR HARMS: Now do these clinics already have protocol arrangements with hospitals? [LB51]

SENATOR KRIST: Some of them do and some of them do not, and... [LB51]

SENATOR HARMS: Are these clinics...have the right credentials? Are they accredited? I mean have they gone through... [LB51]

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SENATOR KRIST: Under the current credentialing and licensing process, yes, they do. [LB51]

SENATOR HARMS: So if they've met all this requirement--they're accredited, they've been certified--why do we want to go this direction? Is this more of a revenue question, of a revenue flow, eliminating some of the revenue flow for certain hospitals, or is this really directed at patient care? I have a confusion about this. Which is correct? [LB51]

SENATOR KRIST: Well, I will give you an example of the kind of problem that we have in the state--or had in the state--and what this is actually aimed at trying to correct. In Fremont, we had a private...a physician who actually leased property in a hospital facility and started an oncology practice...an oncology clinic. As the result of no oversight and no review of his best practices, there were 99 cases of hepatitis that broke out as a result of his clinic. During that time, with lack of oversight and with no transfer agreement and with the doctor not having privileges at even the hospital that he was renting space from, he was allowed to continue. And you can imagine a cancer patient who now is not just dying of cancer, but has the added benefit of having hepatitis. That is one example of a private physician who would open up a clinic, who would treat, who would not be overseen, whose best practices would not be looked at occasionally, if you will, and who is allowed to practice medicine in the state in a clinical situation, and do harm. So, in fact, I would say this is all about guaranteeing that any citizen in Nebraska that would go in for treatment in one of our clinics, one that we have licensed and certified, would be protected. [LB51]

SENATOR GLOOR: One minute. [LB51]

SENATOR HARMS: Senator, is this one example? Do you have...is this one clinic that stepped across the bound? What about the other clinics, those that have met the requirement, that are certified, that are "credentialized," that most likely are doing a

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good job? So if we pass this bill, will those clinics close? [LB51]

SENATOR KRIST: Well, I think that's what we need to debate in LB51, because I believe, Senator, that when the discussion actually starts on the bill, we will--from disclosure--we will find that this is not unique to the example that I gave you, but to several bad actors that have happened since the repeal of the oversight in 2000. [LB51]

SENATOR HARMS: Can you identify those clinics today? [LB51]

SENATOR KRIST: Yes, sir, I can. [LB51]

SENATOR HARMS: Let's please identify them. [LB51]

SENATOR KRIST: Well, I can...we can go one-by-one if you'd like to. [LB51]

SENATOR HARMS: That would be great if we have time. [LB51]

SENATOR GLOOR: Time, Senator. [LB51]

SENATOR HARMS: I guess we don't. (Laugh) Thank you. [LB51]

SENATOR GLOOR: Senators wishing to be heard are Krist, Conrad, Cook, Howard, Council, and Ken Haar. Senator Krist, you are recognized. [LB51]

SENATOR KRIST: I find it interesting that after something has been heard by the other house, by the people, and it has come out of committee after discussion and it has met the test of our own committees, that the only dissenting vote within the committee structure now wants to take it back into committee. I find it also interesting that at this particular time in space, because of outside interests, there are many members of this body that are missing that would be critical to this discussion. I think that a recommit to

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the committee is an injustice to the system, a system that works very well. Discussion is heard in committee. Take the number of the bill and realize that this bill has been on file and publicly there for anyone to look at since the first day that we were in session. Take, for example, that the testimony that was given in the committee was heard on one day; a week later it was "exec-ed" on. At the end of that Exec Session I simply said: Do your due diligence; I've done mine. We voted on it a week later, a second Exec Session. I would have believed that if it had negative impact or if there was something to say, it would have been said. I think this is a disservice to the body. I think it's a disservice to the community, to the citizens. I think we need to have this discussion on LB51. And if I'm wrong, then you'll vote it down. And if I'm right...or partly right, you'll amend it, and if I'm right it will pass. But simply because you don't want to hear it, I don't believe is fair to the system, to me, to the citizens of Nebraska--particularly, the citizens of Nebraska. Yes, Senator Harms, I think there are several examples of lack of oversight, lack of review of best practices. I don't think this bill does everything that needs to be done in this area--but it needs to be heard. It needs to be heard and the voices of 49 people need to chime in and we need to find resolution on an issue that is critically important to patient safety and patient health. I do respect Senator Cook and others who will oppose this. I do respect their opinion. I understand that we all have constituents to represent. We have values. But the biggest thing that we can do as a member of this body is guarantee the safety of the citizenry. That is, after all, a fundamental government function. If you disagree with that, you don't belong in one of these leather chairs. If you're afraid of the debate, you don't belong in one of these leather chairs. This is a ridiculous recommit. It just...it defies logic why we would not have to have discussion on the mikes to protect patient safety. [LB51]

SENATOR GLOOR: One minute. [LB51]

SENATOR KRIST: I'm not entirely sure if...I'm not entirely sure whether I have overprepared for this and I am anxious to get on with it, or if as some would suggest, particularly Senator Cook, if I've left something out. But you know what? I went through

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that preflight checklist. I've worked on this bill since June. I've talked to people who think this is really, really the first step to guaranteeing patient safety across the state. There are 700 clinics out there that could do exactly what this bad actor did in Fremont, because we are not reviewing their best practice. We are not looking at anything but the physical facility because... [LB51]

SENATOR GLOOR: Time, Senator Krist. Thank you, Senator Krist. The Chair recognizes Senator Conrad. [LB51]

SENATOR CONRAD: Thank you, Mr. President. I rise in support of the recommit to committee motion for a variety of reasons. And I think it's important to start out in a place where we can have a professional dialogue about this. And Senator Krist's comments that anybody in this body who doesn't...who stands in support of this kind of a procedural motion doesn't care about patient or public safety, that's ludicrous. That's absolutely ludicrous. I know that my good friend Senator Krist and all of us, indeed, in this Chamber care very deeply about public safety and patient safety. So let's not drum up the rhetoric. Let's talk about the task at hand and let's talk about the motion at hand. And it does no injustice to our process or our body to utilize our rules to get more information on an important piece of legislation. That's why it's in the rules. It's made for these very type of examples where we have more questions than we have answers. Senator Krist just noted in his last comment that, well...he started out by saying, well, it applies to maybe 31 folks on this sheet that I passed around, and then he, I think, said 700 at the end. So I guess it's someplace in between 31 and 700. And these are the exact kind of questions you're going to get to hear a lot about during the course of this debate. Number one, if the body deems that these transfer agreements and privileges issues to be good public policy, then we should apply it to all healthcare facilities in Nebraska. I think that's the first threshold. And there's 15 different designations per statute and they're reflected in the amendments that I have filed, including those folks who hold themselves out to be health clinics, if we do care about patient safety and public safety. If it's good for one, it's good for everybody. But there's already exemptions

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listed in Senator Krist's bill and it's not really clear why. And so if it's not, indeed, good public policy for everybody, then let's talk about who else we should exempt, because it's an over...it's an overly burdensome additional rule and regulation, more bureaucratic structure on...that really doesn't achieve the underlying objectives of public health and safety. Then let's talk about a variety of other public policy issues that are related to this very question related to competition in the private sector, related to an improper delegation of our legislative authority to a private entity, and the list goes on and on and on. And Senator Krist mentions this example from the Fremont health clinic and how this type of legislation, if it was in place, would have fixed that tragedy. That's absolutely incorrect. The reason they had an outbreak of hepatitis at that cancer clinic was due to the fact that the medical personnel were reutilizing syringes. So there's nothing that a hospital transfer agreement or a clinical privileges designation would have done to stop the reuse (laugh) of syringes in the clinic. And if that's the thing that we're most worried about, then we should apply the same standard to every medical facility that utilizes a syringe. But we don't. It's not in the bill. That's not in the bill at all. It's not in the committee amendment. It's not fixed by that at all. So I know that we're going to have an opportunity to talk more about this, but I ask yourself this morning to listen very carefully. And if you hear more questions than answers, this should be dealt with in the Health and Human Services Committee. They have the jurisdiction, they have the expertise, and they have the resources to work this out in a uniform, consistent, and comprehensive manner. Piecemeal public policy is not good public policy and you know that. You know that, colleagues, because you do the hard work in your committees. You're going to hear today from members of the Health and Human Services Committee who are agreeing with my position that since the bill was advanced they've realized that the scope, breadth, depth, and application for implementing this legislation... [LB51]

SENATOR GLOOR: One minute. [LB51]

SENATOR CONRAD: ...is far larger than Senator Krist ever imagined or purported them

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to be. They're going to speak in support of this motion. That's powerful. That's very powerful. And I hope you take those heartfelt comments into consideration. This is an important issue. I, 100 percent, agree with Senator Krist about that and I think that all of us who are talking here today care about patient safety, care about public safety. But we have a way to do things and that's through the jurisdiction and expertise that are garnered by committee members. Go back, work with the Department of Health and Human Services. Say we have all these different classifications of healthcare facilities; okay, why so? What level of regulation should each of those fall under? How does that interface with federal law? How does it interface with other healthcare statutes? None of those questions are answered in LB51 or the committee amendment, and Senator Krist knows that. So it's appropriate to have that dialogue at the committee level where they could work out those issues. [LB51]

SENATOR GLOOR: Time, Senator. [LB51]

SENATOR CONRAD: Thank you. [LB51]

SENATOR GLOOR: Thank you, Senator Conrad. (Visitors introduced.) Mr. Clerk. [LB51]

CLERK: Mr. President, I do have a few items. I have a Reference report referring certain gubernatorial appointees to a standing committee for confirmation hearing. An amendment to be printed: Senator Cornett to LB389, to LB81. Senator Langemeier, a motion to LB389. (Legislative Journal pages 706-707.) [LB389 LB81]

And a priority motion, Mr. President. Senator Fischer would move to adjourn the body until Friday morning, March 4, at 9:00 a.m.

SENATOR GLOOR: Members, you have heard the motion to adjourn until Friday morning at 9:00 a.m. All in favor say aye. All opposed say nay. We are adjourned.